

Exhibit 1

Public Interest Statement

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

| | | |
|--|---|---------------------|
| In re Applications of |) | |
| |) | |
| ATLANTIS HOLDINGS LLC, Transferor, |) | |
| |) | |
| and |) | WT Docket No. _____ |
| |) | |
| CELLCO PARTNERSHIP D/B/A |) | |
| VERIZON WIRELESS, Transferee |) | |
| |) | |
| for Consent to the Transfer of Control of |) | |
| Commission Licenses and Authorizations |) | |
| Pursuant to Sections 214 and 310(d) of the |) | |
| Communications Act |) | |

**DESCRIPTION OF TRANSACTION,
PUBLIC INTEREST SHOWING
AND RELATED REQUESTS AND DEMONSTRATIONS**

June 13, 2008

SUMMARY

Cellco Partnership d/b/a Verizon Wireless, with its wholly-owned subsidiary AirTouch Cellular (collectively, “Verizon Wireless”), and Atlantis Holdings LLC (“Atlantis Holdings”), hereby request the Commission’s consent to transfer control to Verizon Wireless of Atlantis Holdings’ interests in various radio station authorizations, spectrum leases, and domestic and international Section 214 authorizations held by ALLTEL Corporation (“ALLTEL”), its subsidiaries and controlled partnerships, and partnerships in which ALLTEL has a minority, non-controlling general partner interest. As discussed herein, the proposed transaction satisfies the Commission’s standards for approval, does not implicate unjust enrichment or trafficking, and does not require any waivers of the Commission’s rules. The applicants thus ask that the transaction be approved on an expedited basis.

The transaction brings together the complementary capabilities of Verizon Wireless and ALLTEL to produce significant public interest benefits. Verizon Wireless will be able to create a truly national facilities-based network by using ALLTEL’s regional operations to fill existing network gaps.¹ ALLTEL’s customers—who generally reside in small- to mid-sized cities and rural areas—will enjoy the benefits of a seamless national network; award winning Verizon Wireless-quality services; and rapid access to broadband services. Verizon Wireless customers across the country will benefit from enormous synergy savings totaling at least \$9 billion as well as a truly national network poised to provide next-generation wireless broadband capabilities. Furthermore, a speedy transition will be ensured because the two companies have common network technologies and complementary geographic footprints.

¹ The map contained in Exhibit 2 highlights the new geographic areas that Verizon Wireless will serve following the proposed transaction.

Specifically, the requested consents will produce the following substantial, cognizable public interest benefits:

- For rural America, the transaction will facilitate the expansion of wireless broadband service to the rural areas that comprise a large portion of ALLTEL's footprint. Verizon Wireless has already deployed Evolution-Data Optimized Revision A ("EvDO Rev. A") high speed broadband technology to much of its service area and will promptly deploy this technology to benefit ALLTEL's customers.
- For ALLTEL's existing customers, in addition to Verizon Wireless' award winning network quality and customer care, the transaction will provide access to a broader range of content, applications, devices, and service plans. Verizon Wireless has technical expertise, financial resources, and economies of scope and scale that can be leveraged for the benefit of ALLTEL's customers.
- For Verizon Wireless' existing customers, the transaction promises expanded, seamless network coverage with a uniform look and feel and greater deployment of—and increased capacity for—broadband EvDO Rev. A data services. Indeed, ALLTEL provides services in territories which often are adjacent to major metropolitan areas currently served by Verizon Wireless. In fact, the proposed transaction will enable Verizon Wireless to enter 11 new cellular market areas ("CMAs"), and parts of 43 other CMAs, where ALLTEL is licensed and Verizon Wireless holds no cellular or PCS spectrum.
- For all customers, the transaction will yield synergy savings of at least \$9 billion. As the Commission has repeatedly recognized, such savings represent a tangible and cognizable public interest benefit.
- For all wireless consumers in ALLTEL's coverage areas, the transaction provides the benefits of a stronger national competitor that will stimulate enhanced competition and competitive responses.

In addition, Verizon Wireless will honor ALLTEL's existing roaming agreements with other carriers, ensuring continuity for customers of those carriers. The public interest benefits of the proposed transaction are discussed in detail in Section II(B) below.

The proposed transaction will enhance, not harm, competition. The Applicants have, in Section II(C), discussed the appropriate product market definition and geographic scope of review. The Applicants believe strongly that developments in the wireless marketplace require re-evaluating and expanding the relevant market to be examined both geographically and with

respect to the spectrum assets. The wireless marketplace is increasingly national in nature and spectrum previously not considered available for use has recently been brought on line.

Nonetheless, the Applicants have, in the interest of expedited processing, evaluated the effects of the merger on the traditional CMA basis examining 800 MHz cellular, 1.9 GHz PCS, 700 MHz and 800 MHz specialized mobile radio spectrum. In those areas where licensed coverage between the two carriers does overlap, there is robust and well documented competition present. In such respects, any competitive assessment logically must recognize that the pool of spectrum available for Commercial Mobile Radio Services (“CMRS”) has expanded dramatically. The current spectrum screen does not take account of the full range of available spectrum and therefore no longer provides a meaningful trigger for engaging in competitive analyses. Indeed, over half of the over 600 MHz of spectrum available for mobile services is currently excluded from consideration. And, as documented herein, competition is thriving and will continue to do so. Further, robust competitive forces at the national level, the lack of barriers to entry, and the lack of any risk of coordinated interaction will operate to discipline the behavior of participants in local markets and prevent competitive harm.²

In view of the foregoing, the Applicants believe that the public interest benefits clearly favor granting the requested consents. The Applicants further note that the instant transaction does not implicate any unjust enrichment payment, involve Section 310(b) concerns, require waivers of the Commission's rules, or raise other administrative complexities. Both parties have also recently been approved as legally, financially, and technically qualified to hold Commission licenses, and the non-U.S. ownership in Verizon Wireless has been previously passed upon and determined to be not contrary to the public interest. Accordingly, the Applicants believe the

² Attached as Exhibit 3 is a declaration of economists Dennis Carlton, Allan Shampine and Hal Sider, which reviews the pro-competitive benefits of the transaction.

Commission should grant the requested consents on an expedited basis. Indeed, prompt action is required to speed the deployment of wireless broadband services to rural America and to enable all consumers to enjoy the many benefits of this transaction.

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**DESCRIPTION OF TRANSACTION,
PUBLIC INTEREST SHOWING
AND RELATED REQUESTS AND DEMONSTRATIONS**

By this application and related applications¹ (the “Applications”) and pursuant to Sections 214 and 310(d) of the Communications Act of 1934, as amended (“the Act”), Cellco Partnership d/b/a Verizon Wireless (“Cellco”), and its wholly-owned subsidiary AirTouch Cellular (“AirTouch”) (jointly hereinafter “Verizon Wireless”), and Atlantis Holdings LLC (“Atlantis Holdings”) hereby request the Commission’s consent to the transfer of control to Verizon Wireless of Atlantis Holdings’ interests in various radio station authorizations, spectrum leases,² and domestic and international Section 214 authorizations held by ALLTEL Corporation (“ALLTEL”), its subsidiaries and controlled partnerships, and partnerships in which ALLTEL has a minority, non-controlling general partner interest (collectively, “ALLTEL Subsidiaries and Partnerships”). As discussed herein, the proposed transfers of control satisfy the Commission’s standards for approval, do not implicate unjust enrichment or trafficking, do not require any waivers of the Commission’s rules, and accordingly can be approved expeditiously.

¹ Individual applications have been filed to transfer radio station authorizations and spectrum leases held by each of the ALLTEL Subsidiaries and Partnerships. In addition, the Applicants are concurrently filing applications on FCC Form 312 to transfer control of domestic and international Section 214 authorizations held by some of these entities. ALLTEL also directly holds an aircraft radio license, which cannot be transferred under the Commission’s rules. This license will be cancelled when the proposed transaction is consummated. Concurrent with this cancellation, Verizon Wireless will submit an application requesting a new aircraft radio license. The ULS File Number provided to the applicant the Parties have designated as the lead application is 0003463892.

² ALLTEL leases spectrum in a number of markets from a variety of carriers. The disposition of these leases is discussed in Section III(J).

I. DESCRIPTION OF THE TRANSACTION

A. Verizon Wireless

Verizon Wireless serves over 67 million customers throughout the United States on the nation's most reliable wireless voice and data network.³ Verizon Wireless utilizes Code Division Multiple Access ("CDMA") technologies (voice, 1xRTT, and EvDO-Rev. A), operating on licensed 800 MHz cellular and 1.9 GHz PCS spectrum. Verizon Wireless employs over 69,000 individuals who are dedicated to delivering the ultimate experience in wireless technology. Verizon Wireless is recognized as the industry's leading wireless voice provider—a fact confirmed in recent industry surveys by J.D. Power & Associates, which awarded Verizon Wireless consistently high marks in every region for overall customer satisfaction⁴ and also ranked the company first in overall customer satisfaction for wireless data service provided to business customers.⁵ Due to Verizon Wireless' commitment to its customers, its churn rate is the lowest among major wireless carriers.⁶

³ Verizon Wireless does not hold PCS or cellular licenses in the state of Alaska, but serves the lower 48 contiguous states, the District of Columbia, and Hawaii.

⁴ See J.D. Power & Associates, Wireless Service Ratings (Volume 1), *available at* [http://www.jdpower.com/telecom/ratings/wireless-service-ratings-\(volume-1\)](http://www.jdpower.com/telecom/ratings/wireless-service-ratings-(volume-1)) (last visited June 10, 2008).

⁵ See J.D. Power & Associates, Press Release, J.D. Power & Associates Reports: Verizon Wireless Ranks Highest in Satisfying Business Customers in Both Large Enterprise and Small/Midsize Segments, <http://www.jdpower.com/corporate/news/releases/pressrelease.aspx?ID=2008054> (May 22, 2008) (last visited June 10, 2008).

⁶ See Verizon Wireless Customer Satisfaction Milestones, <http://aboutus.vzw.com/customersatisfaction/milestones.html> (under Feb. 4, 2008 release) (last visited June 10, 2008) (noting that "[f]or the thirteenth straight quarter, Verizon Wireless reported the lowest customer churn (turnover) rate in the industry for the fourth quarter of 2007").

Verizon Wireless is a general partnership headquartered in Basking Ridge, New Jersey, that is jointly beneficially owned by Verizon Communications Inc. (“Verizon Communications”) and Vodafone Group Plc. (“Vodafone”). Verizon Wireless has previously been determined to possess the legal, technical and financial qualifications required by the Communications Act to control and hold Commission authorizations. Verizon Wireless’ qualifications to hold cellular and PCS licenses are a matter of public record, established and approved in various Commission decisions.⁷ Detailed information regarding the ownership of Verizon Wireless is contained in Verizon Wireless’ FCC Form 602, which is on file with the Commission.⁸ There have been no changes to Verizon Wireless’ qualifications. Accordingly, Verizon Wireless is qualified to hold the licenses that are the subject of these applications.⁹

⁷ See, e.g., *Applications of Northcoast Commc’ns, LLC and Cellco P’ship*, Memorandum Opinion and Order, 18 FCC Rcd 6490 (Comm’l Wireless Div. 2003) (“*Northcoast Order*”); *Wireless Telecomms. Bureau and Int’l Bureau Grant Consent for Assignment or Transfer of Control of Wireless Licenses and Authorizations from Price Commc’ns Corp. to Cellco Partnership*, Public Notice, 16 FCC Rcd 7155 (2001); *FCC Public Notice*, Report No. 2086 (rel. Mar. 2, 2005) (granting applications of NextWave Telecom Inc. and Cellco Partnership seeking FCC approval of the proposed transfer of control of licenses held by NextWave Personal Commc’ns Inc., Debtor-In-Possession and NextWave Power Partners Inc., Debtor-In-Possession); *FCC Public Notice*, Report No. 2018 (rel. Dec. 15, 2004) (granting applications of Qwest Wireless, LLC and Cellco Partnership seeking FCC consent to the assignment of 62 broadband Personal Communications Services licenses).

⁸ See ULS Ownership Disclosure File No. 0003464689. A proposed FCC Form 602 for Verizon Wireless post-transaction has also been filed with the Commission. See ULS Ownership Disclosure File No. 0003467172.

⁹ The Commission has previously approved Vodafone’s minority, indirect, non-controlling interest in Verizon Wireless, as well as Vodafone’s qualifications (as a foreign corporation) to hold indirect ownership interests in common carrier licensees pursuant to Section 310(b)(4) of the Communications Act. In Section III(A) of this Exhibit, the Applicants request that the Commission extend such previous Section 310(b)(4) ruling to the licenses and authorizations that are the subject of the Applications.

B. ALLTEL Corporation

ALLTEL is a regional carrier that currently serves over 13 million customers in small- and mid-sized cities and rural areas in 34 states throughout the Southeast and portions of the Northeast, Southwest, and upper Midwest United States. As of this filing, ALLTEL's wireless license footprint covered 125 Metropolitan Statistical Areas ("MSAs") and 265 Rural Service Areas ("RSAs").¹⁰ Thus, ALLTEL's rural cellular and PCS license footprint represents approximately 90 percent of its total cellular and PCS licensed territory.

The ALLTEL Subsidiaries and Partnerships hold multiple 800 MHz band Cellular, 1.9 GHz PCS licenses, paging, local multipoint distribution services ("LMDS"), microwave, SMR, industrial business pool, 39 GHz, and 700 MHz lower band licenses through a number of subsidiaries. In addition, they hold a domestic Section 214 authorization and several international Section 214 authorizations. Although ALLTEL spun off its wireline business in 2006 to form Windstream Corporation, ALLTEL retained control of Kin Network, Inc., which provides tandem switching services in the state of Kansas.

Like Verizon Wireless, ALLTEL provides digital wireless communications to its customers using CDMA technology.¹¹ ALLTEL also is deploying third generation technologies such as CDMA2000 1xRTT and Evolution-Data Optimized ("EvDO")—although the slower

¹⁰ ALLTEL also holds minority, non-managing interests in a number of partnerships that hold licenses in 21 additional markets. Where the interest is attributable (*i.e.*, 10 percent or greater), those markets have been included in the overlap analysis attached hereto as Exhibit 4, unless the manager of the limited partnership was Verizon Wireless and the only overlapping spectrum was attributable to Verizon Wireless already. For example, ALLTEL holds attributable minority interests in GTE Mobilnet of South Texas Limited Partnership, GTE Mobilnet of Texas RSA #17 Limited Partnership, MODOC RSA Limited Partnership, Pittsfield Cellular Telephone Company, and Virginia 10 RSA Limited Partnership, all of which are managed by, and already attributable to, Verizon Wireless.

¹¹ While ALLTEL continues to provide analog wireless communications in some areas, ALLTEL plans to retire its entire analog network by the end of 2008.

variant of EvDO known as “Revision 0” or “Rev. 0”—to provide enhanced wireless data services. As of December 31, 2007, ALLTEL had expanded its 1xRTT data coverage to approximately 96 percent of its POPs and its EvDO Rev. 0 data coverage to approximately 76 percent of its POPs. ALLTEL also supports a Global System for Mobile Communications (“GSM”) network in certain markets to serve GSM roamers.¹²

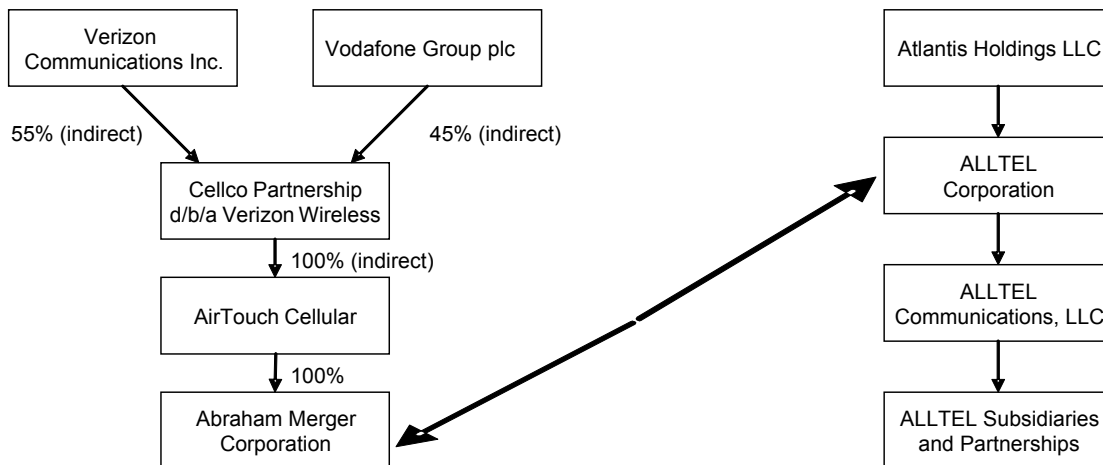
The Commission has previously found ALLTEL to be qualified to hold FCC licenses.¹³ There is no question about ALLTEL’s character or ongoing qualifications to hold the subject Commission authorizations.

C. The Proposed Transaction

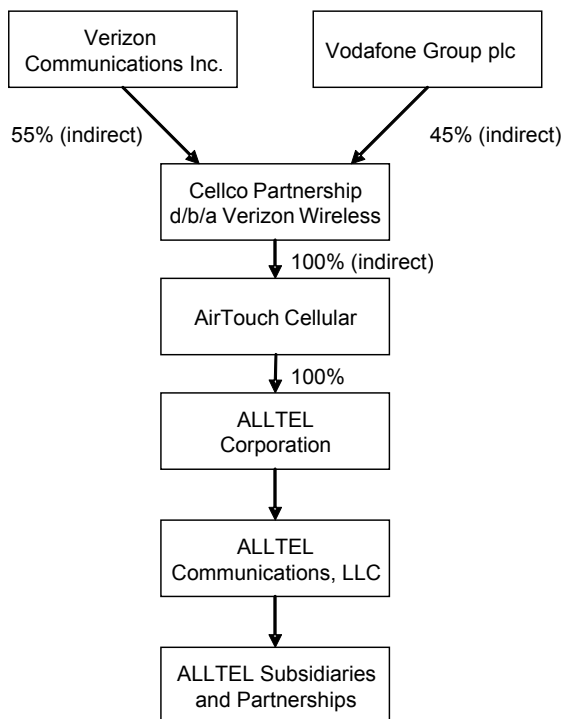
On June 5, 2008, Verizon Wireless, AirTouch, Abraham Merger Corporation (“Merger Sub”), ALLTEL and Atlantis Holdings entered into an Agreement and Plan of Merger (the “Merger Agreement”). Pursuant to this agreement, Merger Sub, a newly formed, wholly-owned subsidiary of AirTouch, will merge with and into ALLTEL (the “Merger”), with ALLTEL continuing as the surviving corporation.

¹² Verizon Wireless intends to honor the terms of ALLTEL’s roaming agreements. *See* p. 17, *infra*.

¹³ *See, e.g., Applications of ALLTEL Corporation, Transferor, and Atlantis Holdings LLC, Transferee, For Consent To Transfer Control of Licenses, Leases and Authorizations, Memorandum Opinion and Order, 22 FCC Rcd 19,517, 19,519-20 (¶ 7) (2007).*



After consummation of the proposed transaction, ALLTEL will be a direct, wholly-owned subsidiary of AirTouch and an indirect wholly-owned subsidiary of Verizon Wireless:



At the effective time of the Merger, each issued and outstanding share of common stock of ALLTEL will be cancelled and converted into the right to receive an amount of cash derived from the formula set forth in the Merger Agreement. Following consummation of the

transaction, interests in all FCC licenses and leases currently held by Atlantis Holdings through the ALLTEL Subsidiaries and Partnerships will be held by Verizon Wireless.

II. THE PROPOSED TRANSACTION IS IN THE PUBLIC INTEREST AND SHOULD BE APPROVED

A. The Standard of Review

Under the Communications Act, the Commission is required to determine whether the Applicants have demonstrated that the proposed transfer of control of ALLTEL's licenses, leases and authorizations to Verizon Wireless will serve the public interest, convenience, and necessity.¹⁴ In making this determination, the FCC "must assess whether the proposed transactions comply with the specific provisions of the Communications Act, the Commission's rules, and federal communications policy."¹⁵ Barring transactions that would violate a statute or rule, the FCC "considers whether [a proposed transaction] could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Communications

¹⁴ 47 U.S.C. §§ 214(a), 310(d).

¹⁵ *Applications of Midwest Wireless Holdings, L.L.C. and ALLTEL Commc'ns, Inc.*, Memorandum Opinion and Order, 21 FCC Rcd 11,526, 11,535 (¶16) (2006) ("*ALLTEL-Midwest Order*") (citing *Applications of Nextel Partners, Inc., Transferor, and Nextel WIP Corp. and Sprint Nextel Corp., Transferees*, Memorandum Opinion and Order, 21 FCC Rcd 7358, 7360 (¶ 7) (2006) ("*Sprint Nextel-Nextel Partners Order*"); *SBC Commc'ns Inc. and AT&T Corp. Applications for Approval of Transfer of Control*, Memorandum Opinion and Order, 20 FCC Rcd 18,290, 18,300 (¶ 16) (2005) ("*SBC-AT&T Order*"); *Verizon Commc'ns Inc. and MCI, Inc. Applications for Approval of Transfer of Control*, Memorandum Opinion and Order, 20 FCC Rcd 18,433, 18,442-443 (¶ 16) (2005) ("*Verizon-MCI Order*"); *Applications of Nextel Commc'ns, Inc. and Sprint Corp.*, Memorandum Opinion and Order, 20 FCC Rcd 13,967, 13,976-977 (¶ 20) (2005) ("*Sprint-Nextel Order*"); *Applications of W. Wireless Corp. and ALLTEL Corp.*, Memorandum Opinion and Order, 20 FCC Rcd 13,053, 13,062-063 (¶ 17) (2005) ("*ALLTEL-WWC Order*"); *Applications of AT&T Wireless Servs., Inc. and Cingular Wireless Corp.*, Memorandum Opinion and Order, 19 FCC Rcd 21,522, 21542 (¶ 40) (2004) ("*Cingular-AT&T Wireless Order*").

Act or related statutes.”¹⁶ It does so by “employ[ing] a balancing test weighing any potential public interest harms of a proposed transaction against any potential public interest benefits to ensure that, on balance, the proposed transaction will serve the public interest.”¹⁷

In this submission, the Applicants demonstrate that the proposed transaction does not violate the Act or Commission rules or policy and that the ample public interest benefits and ongoing competitiveness of the wireless industry clearly favor granting the Applications.¹⁸ As discussed below, the proposed transaction promises tremendous consumer benefits without any significant harm to competition.¹⁹ The Applicants note that even though the merger as a whole will not harm competition, to the extent competitive issues may arise in discrete markets the Applicants will address those with the Department of Justice and the FCC. Accordingly, the

¹⁶ See, e.g., *ALLTEL-Midwest Order*, 21 FCC Rcd at 11,535 (¶16); *SBC-AT&T Order*, 20 FCC Rcd at 18,300 (¶ 16); *Verizon-MCI Order*, 20 FCC Rcd at 18,442-443 (¶ 16); *Sprint-Nextel Order*, 20 FCC Rcd at 13,976-977 (¶ 20).

¹⁷ See, e.g., *ALLTEL-Midwest Order*, 21 FCC Rcd at 11,535 (¶16); *Sprint Nextel-Nextel Partners Order*, 21 FCC Rcd at 7,360 (¶ 7); *SBC-AT&T Order*, 20 FCC Rcd at 18,300 (¶ 16); *Verizon-MCI Order*, 20 FCC Rcd at 18,443 (¶ 16); *Sprint-Nextel Order*, 20 FCC Rcd at 13,976 (¶ 20); *ALLTEL-WWC Order*, 20 FCC Rcd at 13,062-063 (¶ 17); *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21,542-543 (¶ 40).

¹⁸ Moreover, this merger will not exacerbate high-cost universal service fund growth by a competitive eligible telecommunications carrier (“ETC”) because the Commission has already addressed this issue by adopting an interim cap on such support. See *High Cost Universal Service Support; Federal-State Joint Board on Universal Service*, Order, WC Docket No. 05-337, CC Docket No. 96-45, FCC 08-122 (May 1, 2008). The interim cap limits universal service support on a state-by-state basis to the total support received by competitive ETCs in March 2008. *Id.*, ¶ 26.

¹⁹ The focus of the discussion in this section is on the melding of the CMRS operations of the two Applicants as such services comprise the vast majority of ALLTEL's business. ALLTEL also has some other more limited businesses and associated licenses and authorizations (e.g., 39 GHz operations and Kansas CLEC, Kin Network, Inc.), the transfer of which to Verizon Wireless is incidental to the transaction. These businesses and licenses will also benefit from the transfer to Verizon Wireless because of the resources, expertise and experience Verizon Wireless possesses and can bring to bear on these assets. Significantly, there are no competitive harms associated with the transfer of these assets as Verizon Wireless does not compete with those business operations.

Commission should find the proposed transaction to be in the public interest and approve the Applications without delay.

B. The Proposed Transaction Will Generate Substantial Public Interest Benefits

The Commission has previously recognized the public interest benefits that flow from the merger of a regional wireless carrier with a national carrier by expanding the geographic reach of the combined entity.²⁰ Such benefits are plainly present in this transaction. Indeed, Verizon Wireless and ALLTEL have complementary footprints, with ALLTEL strong in the center of the country where Verizon Wireless lacks facilities. The transaction will allow the combined entity to reach millions of people that Verizon Wireless does not cover today. The two companies' network technologies are also compatible, allowing for rapid integration, with resulting benefits for consumers.

The proposed transaction will particularly benefit consumers in rural areas. ALLTEL currently provides services in territories within 34 states covering nearly 80 million POPs, many of which are in rural parts of the country. The transaction will enable Verizon Wireless to bring its considerable technical and managerial expertise and experience in deploying state of the art broadband technology to these rural areas of the country. Verizon Wireless has already deployed EvDO Rev. A to much of its service region. The transaction will allow it to expand this third

²⁰ See, e.g., *Applications of T-Mobile USA, Inc. and SunCom Wireless Holdings, Inc. For Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 23 FCC Rcd 2515, 2519 (¶ 10) (2008) (finding that “the proposed transaction would enable T-Mobile to expand its wireless footprint in the Southeast United States, Puerto Rico and the U.S. Virgin Islands”); *Wireless Telecomms. Bureau and International Bureau Grant Consent for Transfer of Control or Assignment of Licenses from Telecorp PCS, Inc. to AT&T Wireless Services, Inc.*, Public Notice, DA 02-331 (Feb. 12, 2002); *Applications of Pacific Wireless Techs., Inc. and Nextel of Ca., Inc.*, Memorandum Opinion and Order, 16 FCC Rcd 20,341 (2001); *ALLTEL-WWC Order*, 20 FCC Rcd at 13,108 (¶ 150) (stating that “we believe that the transaction is likely to enable the merged entity to achieve certain economies of scope and scale and operating synergies of the type asserted and that, absent the transaction, the Applicants individually could not have achieved”).

generation technology—and ensuing technologies—to the many rural areas that make up most of ALLTEL's geographic footprint. In addition, the transaction will benefit all existing ALLTEL customers, by allowing them to enjoy improved quality of service, expanded network coverage, increased customer service, a greater choice of wireless services, devices, and rate plans, as well as the Open Development Initiative (“ODI”) benefits introduced to Verizon Wireless customers.

The proposed transaction will also benefit Verizon Wireless’ existing and future customers, because it will enable Verizon Wireless to enter 11 new Cellular Market Areas (“CMAs”),²¹ and parts of 43 other CMAs,²² where ALLTEL is licensed and Verizon Wireless holds no 800 MHz cellular or 1.9 GHz PCS spectrum. All of these whole or partial coverage expansion markets are classified as RSAs. The proposed transaction will thus provide a larger, seamless national footprint throughout which customers of the merged company can be assured of enjoying high-quality services with the same look and feel.

²¹ These markets include CMA414, Iowa 3 - Monroe; CMA424, Iowa 13 - Mitchell; CMA425, Iowa 14 - Kossuth; CMA430, Kansas 3 - Jewell; CMA431, Kansas 4 - Marshall; CMA435, Kansas 8 - Ellsworth; CMA436, Kansas 9 - Morris; CMA441, Kansas 14 - Reno; CMA504, Missouri 1 - Atchison; CMA506, Missouri 3 - Schuyler; and CMA540, Nebraska 8 – Chase.

²² These markets include CMA325, Arkansas 2 - Marion; CMA326, Arkansas 3 - Sharp; CMA327, Arkansas 4 - Clay; CMA332, Arkansas 9 - Polk; CMA333, Arkansas 10 - Garland; CMA334, Arkansas 11 - Hempstead; CMA335, Arkansas 12 - Ouachita; CMA354, Colorado 7 - Saguache; CMA381, Georgia 11 - Toombs; CMA417, Iowa 6 - Iowa; CMA422, Iowa 11 - Hardin; CMA423, Iowa 12 - Winneshiek; CMA426, Iowa 15 - Dickinson; CMA427, Iowa 16 - Lyon; CMA432, Kansas 5 - Brown; CMA437, Kansas 10 - Franklin; CMA442, Kansas 15 - Elk; CMA457, Louisiana 4 - Caldwell; CMA497, Mississippi 5 - Washington; CMA502, Mississippi 10 - Smith; CMA503, Mississippi 11 - Lamar; CMA505, Missouri 2 - Harrison; CMA507, Missouri 4 - De Kalb; CMA518, Missouri 15 - Stone; CMA520, Missouri 17 - Shannon; CMA533, Nebraska 1 - Sioux; CMA534, Nebraska 2 - Cherry; CMA535, Nebraska 3 - Knox; CMA536, Nebraska 4 - Grant; CMA537, Nebraska 5 - Boone; CMA538, Nebraska 6 - Keith; CMA541, Nebraska 9 - Adams; CMA554, New Mexico 2 - Colfax; CMA558, New Mexico 6 - Lincoln; CMA571, North Carolina 7 - Rockingham; CMA596, Oklahoma 1 - Cimarron; CMA598, Oklahoma 3 - Grant; CMA599, Oklahoma 4 - Nowata; CMA663, Texas 12 - Hudspeth; CMA677, Utah 5 - Carbon; CMA687, Virginia 7 - Buckingham; CMA706, West Virginia 6 - Lincoln; and CMA715, Wisconsin 8 – Vernon.

Additionally, the transaction will enable Verizon Wireless to add more spectrum capacity to its existing holdings in other areas to enable it to better support the increasing demand for broadband services and applications while maintaining or increasing both the quality and capacity of existing voice services. As such, the transaction will increase Verizon Wireless' already favorable economies of scope and scale and result in Verizon Wireless increasing competition in the relevant expansion CMAs and nationally. The Commission has previously found this range of benefits favors approval of a merger,²³ and the Commission should make the same determination here.

1. The Proposed Transaction Will Benefit Rural America

The transaction will particularly benefit customers in rural America. ALLTEL's licensed footprint covers 265 RSAs and 1,455 counties defined as "rural" (*i.e.*, having a population density below 100 persons per square mile). The transaction will enable Verizon Wireless to bring its considerable technical expertise and commitment to deploying cutting-edge, high speed wireless broadband technology to these areas, many of which do not have any alternatives for wireless broadband service today.

Verizon Wireless' commitment to deploying high speed wireless broadband services to its customers is manifest. Verizon Wireless' EvDO network was the first widely-available wireless broadband network in the United States. It is already available in areas where more than 200

²³ See *SBC-AT&T Order*, 20 FCC Rcd at 18,384 (¶ 182) ("The Commission has recognized that 'efficiencies generated through a merger can mitigate competitive harms if such efficiencies enhance the merged firm's ability and incentive to compete and therefore result in lower prices, improved quality, enhanced service or new products.'" (quoting *Application of EchoStar Commc'ns Corp. (a Nv. Corp.), General Motors Corp., and Hughes Elecs. Corp. (De. Corps.) (Transferors) and EchoStar Commc'ns Corp. (a De. Corp.) (Transferee)*, *Hearing Designation Order*, 17 FCC Rcd 20,559, 20,630 (¶ 188) (2002)); *ALLTEL-WCC Order*, 20 FCC Rcd at 13,103 (¶ 140) ("The Commission has previously noted the consumer benefits that flow from expanded footprints.") (citing *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21,604 (¶ 217)).

million Americans reside, including 248 major metropolitan areas and 232 major airports across the country. It enables customers to access BroadbandAccess™ on their laptops, e-mail on their PDAs, and Verizon Wireless' VCast™ Video and Music services on their wireless phones.²⁴

Verizon Wireless also recently announced that its entire EvDO network now utilizes EvDO Rev. A technology.²⁵ The use of EvDO Rev. A allows Verizon Wireless' customers to access wireless services and to download files as much as ten times faster than customers of other wireless service providers that use different broadly deployed network technologies. For mobile phones and laptop computers, customers can enjoy music, games, internet-enabled applications, and full-featured mobile video. The EvDO Rev. A network additionally makes possible new mobile emergency and safety applications, such as remote patient monitoring and mobile robotics. Services and products are also available to support vehicle assistance capabilities through VZNavigator in the form of maps and turn-by-turn directions. Such services will benefit everyone living in the broadband area, not just former ALLTEL customers, because the introduction of new services by providers invariably drives competitive responses from other providers in the intensely competitive mobile services marketplace, thereby increasing the services and features available to *all* consumers.

ALLTEL's customers—particularly those in rural areas—currently do not enjoy these types of third generation wireless broadband services. ALLTEL currently offers EvDO Rev. 0 in

²⁴ In December 2007, *Popular Science* awarded VCast™ a “Best of What’s New Award” in the Gadget category. Popular Science, Best of What’s New ‘07, at http://www.popsci.com/popsci/flat/bown/2007/gadgets/item_54.html (last visited June 10, 2008).

²⁵ See Verizon Wireless News Center, *100 Percent Of Wireless Broadband Network Now Enhanced With Faster Speeds*, June 29, 2007, at <http://news.vzw.com/news/2007/06/pr2007-06-28h.html> (last visited June 10, 2008). Verizon Wireless' high speed data services represent the most advanced wireless broadband technology with the broadest availability. As of the second quarter of 2007, Verizon Wireless' EvDO Rev. A service was available in 245 major metropolitan areas.

service areas covering 76 percent of its POPs, which is significantly slower in throughput speed than Verizon Wireless' EvDO Rev. A.²⁶ In other areas, ALLTEL offers only 1xRTT, which generally provides peak data rates of 144 kb/s—over twenty times slower than Verizon Wireless' EvDO Rev. A network. While ALLTEL plans to offer its customers EvDO Rev. A, widespread commercial availability throughout ALLTEL's network is a number of years away.

Following consummation of the transaction, Verizon Wireless will bring its technical and management expertise, as well as experience with state of the art technology, to bear for the benefit of ALLTEL customers, including those in rural areas. The company plans to move aggressively to upgrade all of ALLTEL's EvDO Rev. 0 cell sites to EvDO Rev. A; thereby increasing EvDO Rev. A covered POPs in the ALLTEL footprint to 76 percent. Verizon Wireless expects to complete that upgrade within one year after the closing date of the transaction.

Starting in 2010 and beyond, the company also plans to deploy Long Term Evolution ("LTE") technology using the 700 MHz spectrum that it recently won at auction. Because ALLTEL's network is primarily based on 800 MHz spectrum, its existing infrastructure is particularly synergistic with LTE deployment and will facilitate the extensive build-out of LTE within ALLTEL's footprint areas. In contrast, ALLTEL was planning to clear narrow slivers of PCS and cellular spectrum for LTE deployment. Clearing legacy technology from PCS and cellular spectrum can be a slow process and using narrow slivers of spectrum for LTE limits the data rates and the number of customers that can be supported on the LTE system. Using the greenfield 700 MHz spectrum enables Verizon Wireless to move more quickly with LTE

²⁶ Verizon Wireless' EvDO Rev. A network provides data rates of up to 3.1 Mbit/s (downlink) and 1.8 Mbit/s (uplink), as compared to ALLTEL's EvDO Rev. 0 network, which offers theoretical data rates up to 2.4 Mbit/s (downlink) and .15 Mbit/s (uplink).

deployment in the primarily rural ALLTEL markets and also enables the provision of higher data rates to more customers on the LTE system. Rural consumers will clearly benefit from Verizon Wireless' aggressive plans to deploy high speed broadband throughout the ALLTEL footprint.

2. The Proposed Transaction Will Provide Substantial Additional Benefits for Existing ALLTEL Customers

In addition to providing access to cutting-edge high speed broadband services, Verizon Wireless' acquisition of ALLTEL promises substantial additional benefits for existing ALLTEL customers. The transaction will permit Verizon Wireless to offer service in many areas for the first time. After the proposed transaction is consummated and ALLTEL is integrated with Verizon Wireless, ALLTEL's customers will enjoy Verizon Wireless' superior quality of service, seamless national coverage, improved customer care, access to a greater variety and quality of services and content, increased choice in wireless devices, and a broader menu of rate plans.

a. ALLTEL Customers Will Experience Improved Quality of Service

ALLTEL's customers will benefit from Verizon Wireless' commitment to quality of service and its proven track record of technical innovation. Verizon Wireless has invested \$37 billion in the last seven years to increase the coverage and capacity of its award-winning national network and to add new services. The result has been industry-leading customer satisfaction. As a result of its investment in its network and in customer services, Verizon Wireless has received the highest ranking in the fourth annual J.D. Power & Associates 2008 Business Wireless Satisfaction Study^{SM 27}. This survey queried 2,478 businesses regarding overall customer

²⁷ See J.D. Power & Associates, Press Release, J.D. Power & Associates Reports: Verizon Wireless Ranks Highest in Satisfying Business Customers in Both Large Enterprise and Small/Midsize Segments,

satisfaction. Verizon Wireless was ranked higher than all other wireless carriers in overall customer satisfaction for wireless data service, effectively meeting customer expectations and requirements of both large enterprise and small/midsize business segments. Additionally, for the fifth consecutive year, in 2008 Verizon Wireless topped the American Customer Satisfaction Index survey, scoring significantly above the industry average and higher than every other measured wireless company.²⁸ For the third year in a row, *Wireless Week* named Verizon Wireless the “Carrier of the Year,” stating that “the carrier has implemented new policies, stepped out from the wireless pack and pursued an unexpected technology path for the future.”²⁹

ALLTEL’s customers will also benefit from Verizon Wireless’ award-winning commitment to customer care. For example, Verizon Wireless’ Welcome Call program ensures that every customer who signs up for or changes an existing Verizon Wireless service plan receives a Welcome Call from a Verizon Wireless customer service representative. The customer service representative reviews the service plan the customer has chosen, discusses features of the service and answers any questions that the customer may have. The Verizon Wireless “Worry Free Guarantee” program allows subscribers to test-drive the network and new equipment for 30 days and change calling plans at any time. Verizon Wireless’ customer care initiatives have produced measurable successes as Verizon Wireless enjoys the highest level of customer loyalty in the wireless industry. After the fourth quarter of 2007, Verizon Wireless

<http://www.jdpower.com/corporate/news/releases/pressrelease.aspx?ID=2008054> (May 22, 2008) (last visited June 10, 2008).

²⁸ See Verizon Wireless Awards and Accolades, <http://aboutus.vzw.com/awards2008.html> (last visited June 10, 2008).

²⁹ *Id.*

announced that, for the thirteenth consecutive quarter, it had the lowest churn rate of all the major wireless companies.³⁰

Verizon Wireless' industry-leading results are directly related to meeting customers' needs, as demonstrated by its Worry Free Guarantee and commitment to deliver the best overall value proposition in the marketplace. One example of Verizon Wireless' dedication to leading the industry in value delivered to the customer is that its commitment extends to Verizon Wireless customers who elect to terminate their service during the term of their contract. Verizon Wireless was the first major carrier to prorate its customers' Early Termination Fee. These pro-consumer policies, and Verizon Wireless' ongoing commitment to providing value in the eyes of the customer, will be available to ALLTEL customers and other potential customers in the ALLTEL footprint after Verizon Wireless completes integration.

b. ALLTEL Customers Will Experience Expanded Seamless Network Coverage

As a result of the transaction, Verizon Wireless will expeditiously integrate ALLTEL's CDMA network into Verizon Wireless' existing operations. Given the compatibility of ALLTEL's CDMA network equipment with Verizon Wireless' existing CDMA network, Verizon Wireless will be able to undertake a rapid and smooth integration of these two networks.³¹ Some of the benefits of Verizon Wireless expanding its advanced network to ALLTEL's service areas are improved service quality and reliability, higher data rates and

³⁰ See Verizon Wireless Customer Satisfaction Milestones, <http://aboutus.vzw.com/customersatisfaction/milestones.html> (under heading of Feb. 4, 2008) (last visited June 10, 2008).

³¹ The map contained in Exhibit 3 highlights the new geographic areas that Verizon Wireless will enter following the proposed transaction.

improved spectral efficiency, and increased ability to meet public safety requirements and emergency preparedness.

Following this integration, ALLTEL's customers will enjoy seamless wireless coverage throughout Verizon Wireless' entire footprint—after consummation of the proposed transaction, Verizon Wireless' network will have substantial population coverage in every state with the exception of Alaska (where Verizon Wireless is not currently licensed to operate).³²

Importantly, the uniformity of the combined network and support systems will permit subscribers to have a consistent look, feel and quality of service important to enhanced customer satisfaction through this entire area. The services that customers grow to enjoy locally will thus be seamlessly available to them as they travel throughout the country.

In addition to providing ALLTEL's (and Verizon Wireless') customers with much more seamless coverage across the nation, Verizon Wireless will continue to provide roaming services to customers of other wireless carriers. ALLTEL currently has various agreements with other carriers to provide roaming on ALLTEL's CDMA and GSM networks. Upon closing of the transaction, Verizon Wireless will honor all of the terms of those CDMA and GSM roaming agreements, thereby ensuring that other carriers' customers will continue to enjoy roaming service.

³² See *ALLTEL-WWC Order*, 20 FCC Rcd at 13,103 (¶ 140) (“The Commission has previously noted the consumer benefits that flow from expanded footprints.”); *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21,604 (¶ 217) (“With a larger footprint, not only can a carrier offer competitive service to more consumers across the country, but also its customers may enjoy enhanced service and/or lower prices because of factors such as the wider area in which the carrier’s full handset functionality is operative and the carrier’s lessened reliance on roaming agreements to fill out its coverage.”).

c. ALLTEL's Customers Will Have Access to a Greater Variety of Services and Content

The transaction will enable ALLTEL customers to access the much broader range of mobile music, video, television and other multimedia services offered by Verizon Wireless. Currently, content options for ALLTEL subscribers are limited. In contrast, Verizon Wireless offers its customers the latest in business information, entertainment, and gaming services and content. Verizon Wireless' exclusive services include VCast™—which was the first true 3G wireless broadband consumer multimedia service in the country. VCast™ allows customers to view video on demand and graphics for 3D games because it runs on Verizon Wireless' EvDO Rev. A network. VCast™'s range of services includes VCast™ Music, VCast™ Video, and VCast™ Mobile TV,³³ all of which offer content from the country's most popular entertainment and information sources.

- VCast™ Music is the world's most comprehensive mobile music service with a library of more than two million songs from well-known and independent artists. VCast™ Music allows Verizon Wireless' customers to download music over the air directly to their wireless phones and to their Windows XP PCs, and transfer new and existing digital music from the PC to their wireless phones. Music lovers can also take advantage of Verizon Wireless' recently launched VCast™ Song ID service, the only service in the United States that enables users to capture information about a song immediately, over-the-air, and then buy a Ringtone, Ringback tone or full-track song, in one seamless process.
- VCast™ Video offers full-motion video clips of the latest news, sports scores and plays, weather, 3D games, entertainment and more, directly on their wireless phones. Updated regularly, customers can get entertainment in ten categories, including Music, Showcase, Comedy, News, Sports, Net's Best, TV to Go, Latino, Kids, and Spiritual.
- VCast™ Mobile TV gives customers full-length broadcast-quality television programs on their wireless phones. Through its relationship with Qualcomm's MediaFLO venture, VCast™ Mobile TV is available to Verizon Wireless subscribers

³³ VCast™ Mobile TV services are integrated with Verizon Wireless' 3G data services, but content is provided via Qualcomm's MediaFLO service using 700 MHz spectrum.

in more than 30 of the nation's largest cities and operates 24 hours a day, bringing viewers content from many of the world's best-known entertainment brands.

Verizon Wireless' national coverage and over 67 million subscribers are very attractive to corporate partners, allowing Verizon Wireless to offer cross-brand applications and a full array and diversity of content. For example, Verizon Wireless has paired with ESPN to provide access to ESPN's regularly updated video clips, providing consumers with the latest sports news and information, game analysis and reporting from ESPN experts and personalities, highlights from college football and basketball games, fantasy games, statistical analysis and reviews, X Games and ESPN original programming. Other popular sources of video content available through Verizon Wireless include YouTube, CBS, Comedy Central, Fox, MTV, NBC News, NBC Entertainment and Nickelodeon, ABC News Now, Fox Sports, Country Music Television, Just for Laughs, CNN to Go, ET to Go, the Wall Street Journal, AccuWeather.com, The Weather Channel, Sesame Street, Maxim, Atom Films, and Heavy.com. Verizon Wireless also has paired with multiple game developers to provide a wide variety of state-of-the-art mobile games, including SEGA's Sonic The Hedgehog, Hands on Mobile's Guitar Hero III Mobile, Nickelodeon Kids and Family Group's AddictingGames' Qwikies, and Mobitween's Mobigamz. The transaction will enable ALLTEL customers to enjoy access to such expanded content and services. Verizon Wireless also offers other services using Global Positioning System data, including Chaperone, which gives parents the ability to identify the location of their child's phone, and VZNavigator, which provides driving directions and map information.

d. Verizon Wireless' Open Development Initiative Allows ALLTEL Customers Access to a Greater Number of Devices and Applications

The transaction also will provide ALLTEL's customers with access to third-party devices and applications because of Verizon Wireless' groundbreaking Open Development Initiative

(“ODI”). In November 2007, Verizon Wireless announced that it will provide customers the option to use any device that meets the company’s published technical standards, which includes the ability to physically connect to the Verizon Wireless network, and to use any application the customer chooses on these devices.³⁴ This new choice will be available to all Verizon Wireless consumers by the end of 2008. ODI will spur innovation and expand customer choice of products available to run on the company’s network. Through this openness, Verizon Wireless expects an innovative array of devices and applications to be deployed on its network.

For example, ALLTEL’s customers will be able to use phones not only offered by Verizon Wireless but also by other CDMA carriers and smaller manufacturers that do not sell their phones through any carrier. These products, however, will not be limited to just wireless phones. The growth potential lies in connections—not only people-to-people connections, but connections of all kinds. Some of the ideas that developers are working on are already conceptualized, like medical devices and gaming consoles, but many have yet to be defined. ALLTEL’s customers, as well as all wireless consumers, will benefit from this expanded choice and innovation as a result of Verizon Wireless’ ODI.

e. ALLTEL’s Customers Will Have Access to the Greater Variety of Wireless Devices Verizon Wireless Traditionally Offers to Its Customers

Verizon Wireless has traditionally offered a wide variety of wireless devices, including the most innovative and sophisticated handsets, to its customers. This is largely due to economies of scale arising from a much larger subscriber base, enhanced access to capital, and advanced technological and software capabilities. The transfer of control of ALLTEL to Verizon

³⁴ Verizon Wireless to Introduce ‘Any Apps, Any Device’ Option for Customers in 2008, News Release (Nov. 27, 2007), <http://news.vzw.com/news/2007/11/pr2007-11-27.html> (last visited June 10, 2008).

Wireless will permit ALLTEL's customers to gain access to the wider variety of handsets Verizon Wireless directly offers to its customers. ALLTEL's customers currently have access to 15 models of phones, 9 PDA/Smartphones or Blackberry devices, and 4 PC cards. In contrast, Verizon Wireless offers over 30 models of phones (a selection that includes the broadest array of Hearing Aid Compatible compliant devices of any national carrier), 13 PDA/Smartphones or Blackberry devices, and 8 PC cards. The full array of handsets available to Verizon Wireless customers—and, after the transaction, to ALLTEL customers—includes Verizon Wireless' branded handsets and devices that take advantage of the faster speeds provided by the EvDO Rev. A network enhancements. These devices, which will be available to ALLTEL's customers for the first time, include Verizon Wireless' USB727 wireless modem, V740 ExpressCard, AirCard 595 and PC5750 PC Cards, all of which are fully compatible with the company's enhanced wireless broadband networks.

f. ALLTEL's Customers Will Have Access to Enhanced Service Plans

Verizon Wireless offers a variety of service plans with data bundles and packaged offerings. All Verizon Wireless bundled service plans include unlimited nights and weekends and unlimited mobile-to-mobile minutes. ALLTEL's bundled service plans also include unlimited nights and weekends and unlimited mobile-to-mobile minutes. The proposed transaction will immediately expand the unlimited mobile-to-mobile minutes calling base of both companies to 80 million subscribers. ALLTEL's customers could thus place unlimited mobile-to-mobile calls to an exponentially expanded number of people (from 13 to 80 million) without tapping into their monthly minutes bucket. This will result in significant cost savings for ALLTEL's customers. Likewise, Verizon Wireless' mobile-to-mobile in-network calling base will increase from 67 to 80 million, again generating cost savings for customers.

ALLTEL's customers will also benefit for the first time from Verizon Wireless' Nationwide and America's Choice plans, which provide a choice in the amounts of bundled minutes together with no roaming or long distance charges for calls on the Verizon Wireless preferred network in the United States. ALLTEL currently charges its customers \$0.59 per minute for nationwide roaming and \$0.40 per long distance minute while roaming in certain parts of the United States that are not part of its National Freedom coverage area. Verizon Wireless also offers family/small group and shared minute plans for multiple-user households and small businesses, plans targeted to business accounts with over 100 lines and national accounts with over 1,000 lines, and a national pre-paid product that enables individuals to obtain wireless voice services without a long-term contract by paying in advance.

On February 19, 2008, Verizon Wireless was the first major wireless carrier to offer truly unlimited flat rate voice plans. The basic unlimited voice plan was offered at \$99.99 a month with unlimited minutes. ALLTEL's customers will have the benefit of this plan and future innovations from Verizon Wireless.

3. The Proposed Transaction Will Yield Extensive Benefits for Existing and Future Verizon Wireless Customers

In addition to producing substantial benefits for ALLTEL customers, the proposed transaction will also yield extensive benefits for existing Verizon Wireless customers and, indeed, for all mobile customers in these areas. The transaction expands Verizon Wireless' licensed footprint into all or portions of 54 new CMAs where the company currently has no cellular or PCS spectrum, while adding spectrum capacity to support increasingly popular broadband services and applications in others. Verizon Wireless customers will thus enjoy the expansion of seamless network access and wireless broadband services, cost savings through

increased efficiencies and greater economies of scale, and the formation of a stronger competitor in the already highly competitive wireless market.

a. Additional Spectrum Will Allow for Greater Roll-out of Broadband and Network Access

The proposed transaction will benefit Verizon Wireless' existing and future customers by expanding the area in which Verizon Wireless can offer wireless broadband services.

Specifically, ALLTEL holds spectrum and provides service in 11 rural CMAs where Verizon Wireless does not currently hold either 800 MHz cellular or 1.9 GHz PCS spectrum.³⁵ In addition, ALLTEL holds spectrum in parts of 43 other CMAs where Verizon Wireless lacks complete 800 MHz or 2 GHz license coverage.³⁶

The transaction will thus provide Verizon Wireless with access to areas—particularly rural areas with large geographic footprints—in which it is not currently providing service. Customers in those areas, in turn, will have access to Verizon Wireless' broadband services locally. Many of the rural areas served by ALLTEL are adjacent to major metropolitan areas served by Verizon Wireless.³⁷ ALLTEL cannot provide service in the adjacent metropolitan areas and therefore relies on roaming agreements when its customers travel or commute to those areas. Likewise, Verizon Wireless relies on roaming agreements when its customers from the metropolitan areas travel to the adjacent rural areas served by ALLTEL. The merger will allow

³⁵ See n.211, *supra*.

³⁶ See n.22, *supra*.

³⁷ These include CMA002, Los Angeles; CMA003, Chicago; CMA005, Detroit; CMA008, Washington; CMA009, Dallas; CMA011, St. Louis; CMA012, Miami; CMA013, Pittsburgh; CMA015, Minneapolis; CMA017, Atlanta; CMA018, San Diego; CMA019, Denver - Boulder; CMA021, Milwaukee; CMA024, Kansas City; CMA031, Columbus; CMA033, San Antonio; CMA036, Memphis; CMA039, Salt Lake City; CMA041, Birmingham, and others. All told, ALLTEL has cellular or PCS spectrum adjacent to 75 MSAs where it does not hold similar spectrum.

customers of both companies in the adjacent and served areas to receive contiguous coverage at metropolitan-rural area boundaries and receive more extensive seamless on-network service.

In addition to increasing Verizon Wireless' coverage footprint by integrating ALLTEL's CDMA operations in areas where Verizon Wireless does not currently operate, the proposed merger will enhance Verizon Wireless' ability to deploy new services in areas where its coverage overlaps with ALLTEL. ALLTEL has network assets—including both spectrum and radio towers—that can be incorporated into the Verizon Wireless network. Additional towers and transmitting facilities could enhance Verizon Wireless' signal strength in some areas and enable better allocation of network resources in others. ALLTEL's facilities will also expedite the roll-out of Verizon Wireless' 700 MHz LTE spectrum both from a cost and speed of deployment perspective. Even more importantly, the additional spectrum held by ALLTEL in particular CMAs will allow Verizon Wireless to deploy new wireless broadband services (for which there is rapidly growing demand) and, in other areas, to enhance capacity that exists. In fact, with Verizon Wireless' EvDO Rev. A broadband offerings, the data throughput speeds available to subscribers depend upon the loading of the serving cell site and the available spectrum at the cell site. Greater spectrum availability, therefore, will translate into faster broadband access as demand for that service continues to grow.

By facilitating the continued deployment of wireless broadband in ALLTEL's rural territories, Verizon Wireless will further enhance the already competitive wireless data industry. Analysts expect strong growth in wireless data over the next several years.³⁸ Laptops already

³⁸ See Mindbranch, *North American Wholesale Private Line Services Markets (June 2007)*, <http://www.mindbranch.com/North-American-Wholesale-R1-5920/> (last visited June 10, 2008) (“In 2006, wireless data revenues increased by approximately 84 percent over 2005, and ... the wireless data segment is bound to grow further.”).

represent more than 50 percent of all PCs, and this percentage is expected to continue to grow.³⁹

But to take advantage of these developments, wireless carriers like Verizon Wireless require sufficient amounts of spectrum to support expanded service offerings that will stimulate growth in demand from additional customers and usage per customer. The proposed transaction will add to Verizon Wireless' ability to offer new broadband services in the overlap areas.

b. Synergies Will Increase Efficiency and Provide Economies of Scale and Scope

As discussed below, the proposed transaction will result in significant operational synergies driven by reduced capital and operating expense savings. Verizon Wireless expects to realize synergies with a net present value, after integration costs, of approximately \$9 billion, including roaming expense savings, elimination of redundant facilities, and a reduction in sales, general, administrative, marketing and customer service costs. Synergies are expected to generate incremental cost savings of \$1 billion in the second year after closing. These reductions in cost will inure to the benefit of consumers.

(1) The Merger Will Provide Cost Savings Through Elimination of Roaming Costs Between ALLTEL and Verizon Wireless

At present, ALLTEL and Verizon Wireless are roaming partners on each others' CDMA networks, although both ALLTEL and Verizon Wireless also currently roam on other carriers' networks. The savings resulting from each company's roaming traffic moving onto the expanded Verizon Wireless network will be substantial. In addition, Verizon Wireless will be

³⁹ See Michael Kanellos, *Notebooks pass desktops in U.S. retail* (Feb. 1, 2006), CNET News.com at http://news.com.com/2100-1044_3-6033967.html (last visited June 10, 2007) ("Notebooks accounted for 50.9 percent of personal computers bought at retail in 2005, while desktops accounted for 49.1 percent."); Agam Shah, *Retailers increasingly boost notebook sales* (Mar. 9, 2008), PC World, at <http://pcworld.about.com/od/notebooks/Retailers-increasingly-boost-n.htm> (last visited June 10, 2008) ("[n]otebook shipments totaled 33 million in the fourth quarter of 2007, growing 41 percent.").

able to save the costs currently incurred by both companies as a result of having to administer the companies' roaming agreements. The FCC previously has found that savings on roaming costs inure to the benefit of consumers and are an important factor in judging the benefits of a merger or acquisition.⁴⁰

(2) The Integration of the ALLTEL and Verizon Wireless Networks Resulting from the Proposed Merger Will Result in Significant Cost Savings

ALLTEL currently operates CDMA networks in various CMAs. After consummation, Verizon Wireless will quickly integrate these networks into its pre-existing network. The transition can proceed quickly, given the compatibility of the equipment with Verizon Wireless' existing CDMA network. Deployment is clearly expedited through the acquisition of an existing network, as opposed to acquiring bare spectrum and having to build it out. In those markets where Verizon Wireless already provides facilities-based service, substantial cost savings may also be achieved through the elimination of redundant cell sites and transport facilities. Some of the assets will be able to be redeployed to accelerate and reduce the costs of build-out in other areas. Verizon Wireless expects the combined companies' increased scale will provide significant purchasing volume benefits as well.

(3) The Proposed Transaction Will Reduce Advertising and Administrative Costs

As a result of the integration of the ALLTEL and Verizon Wireless customer bases, the advertising and administrative costs associated with servicing customers will be reduced. For

⁴⁰ See *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21,605 (¶ 219) (finding that reductions in marginal costs for wireless carriers are "likely to benefit consumers through lower price and/or increased service."); *ALLTEL-WWC Order*, 20 FCC Rcd at 13,108 (¶ 151) ("ALLTEL's merger with WWC would reduce its roaming costs in geographic markets where ALLTEL and WWC's service areas do not overlap, and the elimination of roaming agreements in these markets would directly benefit ... its customers.").

example, since Verizon Wireless advertises on a virtually nationwide basis, substantial savings will be achieved by absorbing ALLTEL advertising expenses into Verizon Wireless' existing advertising efforts. The savings will be most significant in areas where Verizon Wireless already targets customers. Savings will also result from closing duplicate store and administrative office locations and eliminating duplicative administrative expenses.

The integration of ALLTEL's billing system into Verizon Wireless' in-house system should also result in a substantial reduction in expenses. Verizon Wireless additionally offers "my account" options that deliver significant benefits to customers (like free back-up protection for saved phone contacts) and a new handset at promotional prices on an accelerated basis that are not offered by ALLTEL. As ALLTEL's customers take advantage of these convenient services, further savings will follow. Indeed, Verizon Wireless continues to lead the industry in cost efficiency.⁴¹

4. The Proposed Merger Will Result in the Formation of a Stronger Competitor in Today's Highly Competitive CMRS Segment

The merger of ALLTEL's wireless properties into Verizon Wireless will create a stronger and more efficient wireless competitor with greater coverage in an industry where broad coverage has proven to be paramount in attracting customers and driving competition. Vigorous competition, in turn, will benefit all consumers in the combined company's footprint—including customers of ALLTEL and Verizon Wireless—by encouraging better quality of service, more choices in service, applications, rate plans, and wireless devices, and lower prices.

The benefit to competition will be especially pronounced in ALLTEL areas not currently served by Verizon Wireless. There, a new national provider will be available to provide

⁴¹ See Press Release, Verizon Reports Continued Strong Growth in 1Q 2008, Apr. 28, 2008, at <http://news.vzw.com/news/2008/04/pr2008-04-28.html> (last visited June 10, 2008).

consumers with enhanced choices in both equipment and service. Consumers in the ALLTEL areas will be able to select from Verizon Wireless' broader variety of data services and content offerings in addressing their communications needs. With a wider menu of options to choose from—including Verizon Wireless' award winning service—the Applicants would expect greater competitive pressure to be exacted upon existing competitors. The enhanced competition, obviously, inures to the benefit of all customers in the combined company's footprint, whether or not they choose to have their wireless needs met by the combined company.

The merger of ALLTEL and Verizon Wireless also will make Verizon Wireless a more vigorous competitor in the provision of wireless broadband services—an area where the national carriers have made significant investments in the past and continue to expand their offerings. Clearly, AT&T Mobility, Sprint and T-Mobile are strong national competitors, with AT&T having the largest customer base of any company. All three companies are actively deploying 3G and 4G networks.⁴²

In addition, a new competitor will soon be entering the wireless broadband market. Sprint Nextel and Clearwire recently announced a deal with cable providers Time Warner, Comcast and Bright House, chipmaker Intel, and Google, under which Sprint Nextel's and Clearwire's next generation wireless broadband businesses will be combined to form a new wireless communications company.⁴³ The combined company will have access to an average of

⁴² See, e.g., Press Release, T-Mobile USA, Inc., T-Mobile USA Begins Commercial 3G Network Rollout (May 5, 2008), http://www.t-mobile.com/company/PressReleases_Article.aspx?assetName=Prs_Prs_20080505&title=T-Mobile%20USA%20Begins%20Commercial%203G%20Network%20Rollout (last visited June 9, 2008); Press Release, AT&T, AT&T Nears Completion of 3G Wireless Technology Deployment That Delivers Broadband Wireless Speeds – For Downloads and Uploads (May 21, 2008), <http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=25726> (last visited June 9, 2008).

⁴³ Sprint and Clearwire to Combine WiMax Businesses, Creating a New Mobile Broadband Company, News Release (May 7, 2008),

150 MHz in the top 100 markets and an average of 100 MHz in areas outside the top 100 markets⁴⁴—making it the largest spectrum holder in the United States.⁴⁵ The merger of ALLTEL and Verizon Wireless will enable Verizon Wireless to compete more effectively with this significant new player, as well as the existing players in the CMRS segment.

C. The Proposed Merger Will Not Significantly Harm Competition in Any Product Market

The proposed transaction's combination of Verizon Wireless' and ALLTEL's largely complementary assets and capabilities will result in a truly nationwide provider that is able to compete aggressively across the country. This is significant because the wireless business today is increasingly national in scope with four major national providers competing vigorously through pricing plans and service offerings that are national in scope. These providers include AT&T Mobility, currently the largest provider in terms of customers, which has itself assembled an increasingly nationwide reach; T-Mobile, which recently announced that it has begun the roll-out of its third generation wireless network; and Sprint/Nextel, which with its partners in the recently announced nationwide Clearwire venture has promised to leapfrog existing services. This transaction will do nothing to undermine that existing vigorous competition. Rather, it will plainly promote it by offering consumers broader access to the many benefits, discussed in II(B), that this merger makes possible, thus increasing the competitive pressures on rivals to offer

http://newsreleases.sprint.com/phoenix.zhtml?c=127149&p=irol-newsArticle_newsroom&ID=1141088&highlight=clearwire (last visited June 10, 2008).

⁴⁴ “New Wireless Venture Seen Drawing Scant Regulatory Scrutiny,” *Communications Daily*, at 4 (May 8, 2008) (“*May 8, 2008 Comm. Daily Article*”).

⁴⁵ See “Sprint-Clearwire: Hessee: Spectrum Combo Puts New WiMax JV Two Years Ahead of Competition,” *Washingtonpost.com* (May 7, 2008), *available at* <http://www.washingtonpost.com/wp-dyn/content/article/2008/05/07/AR2008050701164.html>; Stifel Nicholas, “S, CLWR, Cable, Google Jump Start WiMax Drive; Time to Market Key” (May 7, 2008).

consumers innovative, pro-competitive services and policies of their own. Moreover, as explained in the discussion below, even applying the Commission's traditional geographic area by geographic area analysis, the transaction will provide these benefits without material harm to competition in any geographic or product market.

1. The Analytical Framework

a. The Geographic Scope and Nature of the Relevant Product Market

As the Commission has explained, “[m]ergers raise competitive concerns when they reduce the availability of choices to the point that the merged firm has the incentive and the ability, either by itself or in coordination with other firms, to raise prices.”⁴⁶ In other words, the FCC’s concerns are triggered by market power, and the analysis of market power “begin[s] by determining the appropriate market definitions to employ for the analysis, as well as identifying relevant market participants.”⁴⁷ As discussed herein, the Applicants have analyzed the proposed transaction under the Commission’s typical product market definition—a definition that combines interconnected voice and data services, as well as residential and enterprise services, in a “combined market for mobile telephony service.”⁴⁸

⁴⁶ See, e.g., *ALLTEL-Midwest Order*, 21 FCC Rcd at 11,539 (¶ 22); *Sprint-Nextel Order*, 20 FCC Rcd at 13,981 (¶ 30); *ALLTEL-WWC Order*, 20 FCC Rcd at 13,066 (¶ 22); *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21,556 (¶ 68); Horizontal Merger Guidelines, issued by the U.S. Department of Justice and the Federal Trade Commission, at § 0.1 (Apr. 2, 1992, revised Apr. 8, 1997) (“*DOJ/FTC Merger Guidelines*”), at http://www.usdoj.gov/atc/guidelines/horiz_book/hmg1.html (last visited Aug. 26, 2007).

⁴⁷ See, e.g., *ALLTEL-Midwest Order*, 21 FCC Rcd at 11,541 (¶ 25); *Sprint-Nextel Order*, 20 FCC Rcd at 13,981 (¶ 32); *ALLTEL-WWC Order*, 20 FCC Rcd at 13,067 (¶ 24); *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21,557 (¶ 70).

⁴⁸ See, e.g., *ALLTEL-Midwest Order*, 21 FCC Rcd at 11,541 (¶ 26); *Sprint-Nextel Order*, 20 FCC Rcd at 13,983 (¶ 38); *ALLTEL-WWC Order*, 20 FCC Rcd at 13,068 (¶ 29); *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21,558 (¶ 74).

The Applicants have also undertaken the competitive analysis utilizing the smaller geographic basis used by the FCC in prior wireless merger proceedings—CMAs.⁴⁹ Although the Applicants have utilized CMAs for purposes of analyzing this transaction in the interest of expedited processing, the market for mobile telephone service is, in fact, increasingly national in scope. While a national geographic scope has been rejected in certain prior merger proceedings, growing national forces—such as the increasing reliance on national rate plans—argue more and more for redefining how the Commission judges the competitive effects of transactions.⁵⁰ In such regard, the *12th Annual Competition Report* observes that “[t]he basic economic principle for defining the scope of the relevant geographic market is to include two mobile services in the same product market if they are essentially interchangeable from the perspective of most consumers—that is, if consumers view them as close substitutes.”⁵¹ Like other national carriers, Verizon Wireless primarily prices—and advertises—on a national basis, leaving very little room for local (or even regional) variation in pricing.⁵² Most prices are set on a national level, and

⁴⁹ The FCC has used “two sets of geographic areas that may be used to define local markets—Component Economic Areas (‘CEAs’) and [CMAs].” *See, e.g., ALLTEL-Midwest Order*, 21 FCC Rcd at 11,542 (¶ 29); *Sprint-Nextel Order*, 20 FCC Rcd at 13,991 (¶ 57); *ALLTEL-WWC Order*, 20 FCC Rcd at 13,072-073; (¶¶ 44-45); *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21,567-568 (¶¶ 104-105).

⁵⁰ On a national basis, it is clear that the proposed transaction will have no negative impact on competition. The FCC’s *12th Annual Competition Report* recognizes that there are four national mobile telephone operators—AT&T, Inc., Verizon Wireless, Sprint Nextel Corp. and T-Mobile USA. *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, Twelfth Report, 23 FCC Rcd 2241, 2254-55 (¶ 18) (“*12th Annual Competition Report*”). The proposed transaction will not diminish the number of nationwide carriers.

⁵¹ *12th Annual Competition Report*, 23 FCC Rcd at 22,534 (¶ 13).

⁵² Indeed, as of May 2008, approximately 90.4 percent of current Verizon Wireless subscribers have service plans based on national pricing, and close to 100 percent of new subscribers are enrolled in plans with national pricing.

therefore local market conditions are less relevant to a carrier's competitive strategy than are actions taken by other national carriers. In fact, because of the demand for national coverage, approximately 87 percent of the nation's mobile customers subscribe to a national carrier or an affiliate of a national carrier.⁵³ This figure supports the conclusion that consumers shop for national plans and shop national rates—all of which are set on a national level. Even if the Commission does not accept that mobile services operate in a market with a national scope, it is clear that strong national forces discipline competition in local markets.

b. Identification of Participants in the Relevant Product Market

In order to identify market participants, the FCC typically evaluates “whether spectrum is within the input market for mobile telephony service by examining its suitability for mobile voice service,” an analysis that revolves around specific spectrum bands’ “physical properties, the state of equipment technology, whether the spectrum is licensed with a mobile allocation and corresponding service rules, and whether the spectrum is committed to another use that effectively precludes its uses for mobile telephony.”⁵⁴ In the *AT&T-Dobson Order*, the FCC first noted that it had previously included “only cellular, broadband PCS, and . . . SMR . . . spectrum, which totals approximately 200 MHz,” and then determined that “the input market also includes . . . an additional 80 MHz of . . . 700 MHz spectrum . . . , bringing the total amount of spectrum suitable for mobile telephony nationwide to approximately 280 MHz.”⁵⁵

⁵³ 12th *Annual Competition Report*, 23 FCC Rcd at 2362 (Table A-4).

⁵⁴ See, e.g., *ALLTEL-Midwest Order*, 21 FCC Rcd at 11,543 (¶ 31); *Sprint-Nextel Order*, 20 FCC Rcd at 13,992 (¶ 61); *ALLTEL-WWC Order*, 20 FCC Rcd at 13,071 (¶ 41); *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21,560-61 (¶ 81).

⁵⁵ *AT&T-Dobson Order*, 22 FCC Rcd at 20,312 (¶¶ 27, 30). As a result, the FCC “revise[d] the spectrum aggregation screen to 95 MHz, approximately one-third of the 280 MHz of the spectrum suitable for mobile telephony today.” *Id.* at 20,313 (¶ 30).

The Applicants agree that the range of input spectrum should include cellular, PCS, ESMR and 700 MHz bands. However, the Applicants believe strongly this should not be the only spectrum considered in defining the product market. Significant changes have occurred recently that warrant revisiting prior FCC conclusions about whether to include certain additional bands—and the competitors in them—in the analysis.⁵⁶ Indeed, the spectrum input market for the current spectrum screen comprises less than half the spectrum currently available and being used (or imminently to be used) for comparable wireless services. As the Commission itself has noted, “the Commission may from time-to-time need to re-evaluate whether additional spectrum should be viewed as suitable for the provision of mobile telephony services.”⁵⁷ As discussed below, recent developments warrant the agency’s re-evaluation of the relevant input spectrum.⁵⁸

First, developments in the Broadband Radio Service/Educational Broadband Service (“BRS/EBS”) 2.5 GHz spectrum have mooted the Commission’s previously articulated basis for

⁵⁶ *AT&T-Dobson Order*, 22 FCC Rcd at 20,314 (¶ 32) (stating “we conclude that neither AWS-1 spectrum (1710-1755 MHz and 2110-2155 MHz) nor BRS spectrum is available on a nationwide basis. In many markets, this spectrum is currently committed to another use that effectively precludes its use for mobile telephony, and it is unclear whether it will be available for mobile use in the sufficiently near-term”).

⁵⁷ *ALLTEL-Midwest Order*, 21 FCC Rcd at 11,543 (¶ 31 & n.129). In the *700 MHz Order*, in fact, the FCC found that “[t]here is potential for additional entry into the broadband market by carriers operating on spectrum in the . . . Advanced Wireless Service (AWS), Broadband Radio Service (BRS), and 3650-3700 MHz bands.” *See also Applications for the Assignment of License from Denali PCS, L.L.C. to Alaska DigiTel, L.L.C. and the Transfer of Control of Interests in Alaska DigiTel, L.L.C. to General Commc’n, Inc.*, Memorandum Opinion and Order, 21 FCC Rcd 14,863, 14,878-879 (¶ 30) (2006) (stating “We do, however, anticipate that sometime in the near future, as [700 MHz and AWS-1] spectrum becomes available for more immediate use, as technological developments lead to performance and equipment advances, and as spectrum allocations are revised, the Commission will need to re-evaluate whether additional spectrum should be viewed as suitable for the provision of mobile telephony services.”).

⁵⁸ At a minimum, consistent with its pronouncement in the *AT&T-Dobson Order*, the FCC must, “[i]n [its] detailed, case-by-case analysis of markets caught by the initial screen, . . . consider the extent to which AWS-1 or BRS licenses are in fact available *locally*, and if so, include them in the local spectrum input market.” *AT&T-Dobson Order*, 22 FCC Rcd at 20,315 (¶ 35).

omitting this spectrum from the product market.⁵⁹ Most notably, the recently announced joint venture between Sprint Nextel and Clearwire (with strategic investors Google, Intel, and major cable television companies) “will compete head-to-head against the soon-to-be-launched 4G offerings of Verizon Wireless and AT&T.”⁶⁰ The companies plan to rapidly deploy in the BRS/EBS band “the first nationwide mobile WiMAX network to provide a true mobile broadband experience for consumers, small businesses, medium and large enterprises, public safety organizations and educational institutions.”⁶¹ Clearwire’s CEO stated that “[t]he 2.5 GHz band is best for mobile broadband services due to channel size and propagation characteristics,” and that “[i]t’s ideal for broadband because high bandwidth wireless networks have to deliver capacity, not just coverage.”⁶² According to the company’s fact sheet on the deal, “Clearwire expects to offer its mobile broadband services in urban, suburban and rural communities nationwide, with 60 to 80 million people covered by its network by the end of 2009, 120 to 140 million people covered by the network by the end of 2010, and the network ultimately covering

⁵⁹ In the *AT&T-Dobson Order*, the FCC concluded that BRS/EBS is not currently part of the input market for mobile telephony service because “the availability of BRS spectrum for new mobile uses depends on the ongoing transition process.” *AT&T-Dobson Order*, 22 FCC Rcd at 20,315 (¶ 34). See also *ALLTEL-Midwest Order*, 21 FCC Rcd at 11,543 (¶ 31 & n.129). In prior decisions the FCC based similar conclusions on a finding that the BRS/EBS spectrum “is currently subject to rebanding requirements.” The BRS/EBS services have matured substantially, however, in the seven months since the *AT&T-Dobson Order*. Indeed, with respect to the transition, as of May 26, 2008, the transition has been certified complete for 70 percent of the US POPs, and transition plans have been filed covering two-thirds of the remaining POPs.

⁶⁰ Applications of Sprint Nextel Corporation and Clearwire Corporation, ULS File No. 0003368272 (LEAD) (filed June 6, 2008), Description of the Transaction and Public Interest Statement (“*Clearwire Application*”) at 16.

⁶¹ Clearwire Connections Home Page, <http://www.clearwireconnections.com/pr/> (last visited June 4, 2008).

⁶² *New Wireless Venture Seen Drawing Scant Regulatory Scrutiny*, Communications Daily (May 8, 2008).

more than 200 million people across the U.S.”⁶³ The companies note that the mobile WiMax technology they plan to utilize will operate at “speeds fast enough to conduct two-way video conference calls, participate in online multiplayer games, and download multimegabit files in an instant – speeds that, until now, only *wireline* broadband services providers could offer.”⁶⁴

The Sprint-Clearwire Application for approval of the venture states that the new Clearwire “will be an effective new entrant in a rivalrous marketplace, offering broadband service that will compete with numerous established players offering mobile and fixed broadband services”⁶⁵—a clear statement of their intention to compete against Verizon Wireless, AT&T, T-Mobile and other cellular, PCS and 700 MHz spectrum holders. Indeed, Dan Hesse, Sprint’s CEO, stated that “[t]he new Clearwire . . . will have an enviable 40 billion MHz pops position,’ which is ‘the largest spectrum position owned by one company’”—and “[t]hat puts

⁶³ UPDATE 1- Clearwire outlines growth for new Sprint venture, Reuters.com, June 12, 2008, *at* <http://www.reuters.com/article/mediaNews/idUSN1241590520080612> (last visited June 12, 2008); Clearwire Connections, Clearwire Transaction Announcement Fact Sheet, *at* <http://www.clearwireconnections.com/pr/factsheets/documents/FactSheet052708.pdf> (last visited June 4, 2008). Notably, this is consistent with regulatory requirements for build-out imposed in the 2005 *Sprint-Nextel Order*. That order conditioned the consummation of that transaction on the merger parties complying with certain construction benchmarks for the BRS/EBS band. Letter from Sprint/Nextel to FCC (Aug. 2, 2005); *see also Sprint-Nextel Order* 20 FCC Rcd at 14,036 (¶ 192). Under the merger condition, Sprint Nextel is required—by August 8, 2009, approximately a year from now—to “offer service in the 2.5 GHz band to a population of no less than 15 million Americans, [including] . . . areas within a minimum of nine of the nation’s most populous 100 Basic Trading Areas (BTAs) and at least one BTA less populous than the nation’s 200th most populous BTA.” In these ten BTAs, the deployment must “cover at least one third of each BTA’s population.” *Id.* at 14,028 (¶ 164).

⁶⁴ *Clearwire Applications* at 16 (emphasis in original, footnotes omitted); *see also* “Sprint and Clearwire to Combine WiMAX Businesses, Creating a New Mobile Broadband Company,” News Release (May 7, 2008), *available at* http://newsreleases.sprint.com/phoenix.zhtml?c=127149&p=irol-newsArticle_Print_newsroom&ID=1141088&highlight= (stating network will operate “multiple times faster than today’s 3G wireless networks”).

⁶⁵ *Id.* at 35; *see also id.* at 16 (stating the venture “will compete head-to-head against the soon-to-be-launched 4G offerings of Verizon Wireless and AT&T”); *id.* at 53 (stating “Clearwire will face competition from 4G service providers using 700 MHz spectrum”).

them at least two years ahead of the competition.”⁶⁶ On this basis, the 186 MHz of BRS/EBS spectrum and its licensees must be considered competitors in the relevant product market.

Second, the Applicants believe the FCC’s prior decision not to include Advanced Wireless Services (“AWS”) spectrum has been overtaken by events. In the *AT&T-Dobson Order*, the Commission declined to consider AWS licensees to be participants in the mobile telephony market, concluding that “[t]he AWS-1 spectrum is not generally available for mobile use as yet due to the ongoing clearance of governmental and non-governmental incumbent users . . . [and] the clearance process has no single timetable.”⁶⁷ Recently, however, a number of licensees have, in fact, initiated service using the AWS band frequencies. For example, T-Mobile USA has “recently launched broadband AWS-1 operations in the New York market and plans to roll out service in 25 markets by the end of 2008.”⁶⁸ MetroPCS has launched AWS in

⁶⁶ Sprint CEO Dan Hesse, quoted in Tricia Duryee, “Sprint-Clearwire: Hesse: Spectrum Combo Puts New WiMax JV Two Years Ahead of Competition,” *Washingtonpost.com* (May 7, 2008), available at <http://www.washingtonpost.com/wp-dyn/content/article/2008/05/07/AR2008050701164.html> (last visited June 10, 2008). See also Press Release, Sprint and Clearwire to Combine WiMAX Businesses, Creating a New Mobile Broadband Company (May 7, 2008), at <http://www.clearwireconnections.com/pr/pressreleases/050708.pdf> (last visited June 4, 2008) (“the new Clearwire will have a time-to-market advantage over competitors in fourth-generation services, supported by strong spectrum holdings and a national footprint.”).

⁶⁷ *AT&T-Dobson Order*, 22 FCC Rcd at 20,314 (¶ 33); see also *ALLTEL-Midwest Order*, 21 FCC Rcd at 11,543 (¶ 31 & n.129) (stating “it is still premature to classify the AWS spectrum as suitable for the provision of mobile telephony for purposes of our analysis here”).

⁶⁸ Letter from Kathleen O’Brien Ham, Vice President, Federal Regulatory Affairs, T-Mobile USA, Inc., to Marlene H. Dortch, Secretary, FCC, WT Docket No. 07-195 (June 4, 2008) (regarding meeting with FCC’s Office of Engineering and Technology). See also Press Release, T-Mobile USA, Inc., T-Mobile USA Begins Commercial 3G Network Rollout (May 5, 2008), at http://www.t-mobile.com/company/PressReleases_Article.aspx?assetName=Prs_Prs_20080505&title=T-Mobile%20USA%20Begins%20Commercial%203G%20Network%20Rollout (last visited June 4, 2008) (announcing that the company has “launch[ed] its UMTS/HSDPA network in New York City,” and that it “plans to continue the rollout of its 3G network across major metropolitan markets through the year [and,] [b]y year’s end, . . . expects its high-speed data network will be available in those cities where a majority of its subscribers currently use data services”).

Las Vegas, Nevada, and recent press reports indicate that numerous other areas are to follow, with “[t]he crown jewel of its footprint, New York, . . . go[ing] live before the end of the 2nd quarter.”⁶⁹ Notably, at the time that service area is launched, “almost half of Metro’s covered pops will be in AWS networks.”⁷⁰ Other carriers, such as LEAP Wireless and Stelera, have also been reported to have launched commercial services in the AWS bands.⁷¹ Given the substantial roll-out of wireless broadband services in this band, there is no basis to continue to exclude the 90 MHz of AWS spectrum from the input product market. This is particularly the case since the Commission determined to include 700 MHz spectrum as input spectrum before the vast majority of it was licensed and more than a year before the spectrum was cleared for deployment of wireless services.⁷²

The Applicants also believe that the Commission should revisit its previous conclusion to “exclude satellite carriers, wireless VoIP providers, MVNOs [Mobile Virtual Network Operators], and resellers from consideration when computing initial measures of market

⁶⁹ Kevin Fitchard, MetroPCS to Complete AWS Shift in One Year, TelephonyOnline, May 9, 2008, *at* <http://telephonyonline.com/wireless/news/mettropcs-leap-aws-0509/> (last visited June 4, 2008).

⁷⁰ *Id.*

⁷¹ Press Release, Leap Wireless International, Inc., Leap Launches First Advanced Wireless Services (AWS) Market with Full Capacity Retail and Network Introduction of Cricket Unlimited Wireless Service to Oklahoma City (Mar. 31, 2008), *at* <http://phx.corporate-ir.net/phoenix.zhtml?c=191722&p=irol-newsArticle&ID=1123363&highlight=> (last visited June 4, 2008); Press Release, Stelera Wireless, Stelera Wireless Launches Inaugural Wireless Network Providing High Speed Internet in Rural America (Feb. 8, 2008), *at* <http://www.stelerawireless.com/Portals/0/docs/2.08.08%20Stelera%20Wireless%20Launches%20Inaugural%20Wireless%20Network,%20Providing%20High%20Speed%20INternet%20in%20Rural%20America.pdf> (last visited June 4, 2008).

⁷² Additionally, the Commission determined to include PCS spectrum in the CMRS spectrum cap (the screen’s predecessor) well before that spectrum was cleared and available for deployment of competitive CMRS services.

concentration.”⁷³ The inclusion of satellite providers with Ancillary Terrestrial Component (“ATC”) authority is especially appropriate. Mobile Satellite Ventures (“MSV”) has already received ATC authority, and MSV “is currently authorized to use approximately 30 MHz of coordinated North American spectrum in a terrestrial wireless network with an integrated satellite overlay to provide ubiquitous and enhanced services.”⁷⁴ Globalstar, Inc. (“Globalstar”), a 1.6/2.4 GHz MSS provider, also recently announced that the FCC had expanded its ATC authority to include almost 20 MHz of spectrum, and noted that the company had “an agreement with Open Range Communications Inc. (“Open Range”) permitting Open Range to deploy wireless broadband service in rural America using Globalstar’s ATC authority.”⁷⁵ The press release further notes that Open Range had secured “a \$267 million broadband service loan from the Department of Agriculture’s Rural Utilities program,” and proposes “to use the Globalstar spectrum to deploy wireless WiMAX services to over 500 rural American communities.”⁷⁶ Additionally, “[t]he FCC has assigned 20 MHz of 2 GHz MSS spectrum to ICO [Global Communications (“ICO”), a 2 GHz mobile satellite service (“MSS”) provider,] with geographic coverage of all 50 states in the United States, as well as Puerto Rico and the U.S. Virgin

⁷³ See, e.g., *ALLTEL-Midwest Order*, 21 FCC Rcd at 11,544 (¶ 33); *Sprint-Nextel Order*, 20 FCC Rcd at 13,991 (¶ 58); *ALLTEL-WWC Order*, 20 FCC Rcd at 13,070-71 (¶¶ 38-39); *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21,564 (¶ 92).

⁷⁴ Mobile Satellite Ventures Website, Investor/Financial Company Fact Sheet, <http://www.msvlp.com/investor/fact-sheet.cfm> (last visited June 4, 2008).

⁷⁵ Press Release, Globalstar, Inc., FCC Expands Globalstar’s Ancillary Terrestrial Component Authority (Apr. 10, 2008), at http://www.globalstar.com/en/news/pressreleases/press_display.php?pressId=481 (last visited June 4, 2008).

⁷⁶ *Id.*

Islands.”⁷⁷ ICO recently filed for blanket authority to operate ATC base stations in that 20 MHz of spectrum.⁷⁸ TerreStar also has pending a request for ATC authority.⁷⁹ These ATC services clearly have the capability to compete with services provided over spectrum already included in the relevant product market and are receiving serious financial backing.⁸⁰ Given these developments, any spectrum input analysis should, at a minimum, consider the nearly 90 MHz of ATC spectrum as input spectrum for the analysis.

The Commission is also poised to license a new nationwide wireless broadband competitor in the 2155-2175 MHz band.⁸¹ Based upon press reports, the Commission is readying an order to license this spectrum to a single entity on a nationwide basis. The entity will be required to provide a minimum level of wireless broadband services (at 768 kbps) for free to the public.⁸² It will also be permitted to charge a fee for higher speed broadband services.⁸³ It

⁷⁷ ICO Website, MSS/ATC System, http://www.ico.com/_about/tech/na_mss_atc.php (last visited June 4, 2008).

⁷⁸ See Report No. SES-01012, *FCC Public Notice* (rel. Mar. 5, 2008). Craig McCaw has attributable interests in both the Clearwire venture and ICO.

⁷⁹ See Report No. 01018, *FCC Public Notice* (rel. Mar. 26, 2008).

⁸⁰ See “TerreStar Announces Strategic Investment by EchoStar, Harbinger & Other Investors—Transaction Facilitates Funding through Satellite Launch and will Enhance TerreStar’s Nationwide Spectrum Footprint,” News Release (Feb. 7, 2008), *available at* <http://www.terrestarnetworks.com/news/press/index.html> (noting commitment of \$300 million in investments in TerreStar, which is building the nation’s first integrated mobile satellite-terrestrial (MSS/ATC) communications network); “Mobile Satellite Ventures and SkyTerra Communications Enter Into an Agreement for a \$150 Million Financing,” News Release (Dec. 17, 2007), *available at* <http://www.msvlp.com/media/press-releases-view.cfm?id=157&yr=2007> (noting that MSV is “developing a hybrid satellite-terrestrial communications network, which . . . will provide seamless, transparent and ubiquitous wireless coverage of the United States and Canada to conventional handsets”).

⁸¹ See *Service Rules for Advanced Wireless Services in the 2155-2175 MHz Band*, Notice of Proposed Rulemaking WT Docket No. 07-195 (rel. Sept. 19, 2007).

⁸² See “Martin’s Free Broadband Plan May Face Commission Opposition,” *Communications Daily*, June 2, 2008.

is reported that the Commission will adopt service rules for this spectrum in July and proceed to auction it by year end.⁸⁴ This new licensee will be an additional competitor in the segment.

Finally, the Applicants also believe that the national resellers/MVNOs that compete successfully on the strength of uniquely packaged voice and data services using their own proprietary brand names should also be considered as legitimate market participants. The Commission itself has found in other contexts that wireless resellers provide additional competition.⁸⁵ Some MVNOs are formidable competitors—TRACFONE, for example, serves over 6.5 million customers nationally through resale, while Virgin Mobile serves over 4.8 million customers and, as of March 31, 2007, Boost Mobile served nearly 4.3 million customers nationally, including customers in virtually all of the subject areas. Qwest Wireless resells wireless plans in 14 states, all but two of which (Oregon and Washington) are included in the overlap geographic license areas. Cable operators are also expected to bundle wireless together with their video and VoIP offerings. The Commission should consider these providers to be participants in the relevant product market as well.

⁸³ See *id.*

⁸⁴ See “Martin Pulls AWS-3 Order from June Agenda, Wants July Vote,” *Communications Daily*, June 9, 2008.

⁸⁵ See, e.g., 2000 Biennial Regulatory Review, *Spectrum Aggregation Limits for Commercial Mobile Radio Servs.*, Report and Order, 16 FCC Rcd 22,668, 22,690 (¶ 42) (2001) (“[C]arriers can compete in the provision of CMRS without direct access to spectrum through resale, or a mobile virtual network operator (‘MVNO’) arrangement.”); *id.* at 22,690 n.45 (The MVNO arrangement “is one in which ‘a network operator acts as a wholesaler of airtime to another firm, which then markets itself to users just like an independent operator with its own network infrastructure.’”); see also J. Moynihan, *et al.*, Merrill Lynch, *US Wireline 1Q04 Roundup* at 3 (May 7, 2004) (“[T]here may be five or more large scale companies reselling wireless service by 2005, along with the five facilities-based wireless providers (post the Cingular/AT&T Wireless transaction).”).

c. Initial Screen

In prior mobile transactions, the Commission has used an initial “screen” to focus its competitive inquiry. Specifically, the Commission looks at markets where:

- the post-transaction Herfindahl-Herschman Index (“HHI”) would be greater than 2800 and the change in HHI would be 100 or greater;
- the change in HHI would be 250 or greater regardless of the level of the HHI; or
- post-transaction, the Applicants would hold 95 megahertz or more of spectrum.⁸⁶

As discussed above, there are compelling reasons for increasing the spectrum-related part of the initial screen given the other spectrum bands currently, or soon to be, used for competitive CMRS services. At a minimum, the screen must be increased to reflect the inclusion of BRS/EBS, MSS ATC and AWS spectrum in the spectrum screen analysis. Recent developments with respect to the BRS/EBS band—particularly Clearwire’s announced plans for rapid deployment of an extensive mobile broadband network that Clearwire has stated will surpass what is available today—make clear that this spectrum and its licensees must be considered in the competition analysis for the relevant product market. There is also plainly no valid reason to continue to exclude the AWS or MSS ATC spectrum from the analysis.

In view of the new spectrum realities, the Commission should modify the spectrum screen. Given the vibrantly competitive CMRS market, all of the new spectrum recently made available for such services, and the continual launch of innovative mobile broadband services

⁸⁶ See, e.g., *AT&T-Dobson Order*, 22 FCC Rcd at 20,318 (¶ 40); see also *ALLTEL-Midwest Order*, 21 FCC Rcd at 11,546 (¶ 36); *Sprint-Nextel Order*, 20 FCC Rcd at 13,993 (¶ 63); *ALLTEL-WWC Order*, 20 FCC Rcd at 13,073 (¶ 46); *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21,568 (¶ 106). Consistent with the discussion in the preceding section, the amount of spectrum now available for commercial wireless spectrum dictates a revision of the 95 MHz trigger. The Commission set 95 MHz as the threshold amount for review when there was only 280 MHz of commercial spectrum available for similar services. Today, however, the availability of BRS/EBS, MSS ATC and AWS spectrum raises that amount to over 600 MHz. Accordingly, the Commission should raise the initial trigger substantially.

within existing allocations, there is no continued basis for the current method of analysis. Indeed, counting 50 MHz of cellular, 120 MHz of 1.9 GHz PCS, Sprint's 10 MHz "G" Block, 20 MHz of enhanced SMR, 80 MHz of 700 MHz, 186 MHz of BRS/EBS, 90 MHz of AWS-1,⁸⁷ and 90 MHz of MSS ATC, there is a tremendous amount of spectrum—more than 600 MHz—available for competitive CMRS services. Considering the deployment of facilities-based services on this array of spectrum, there are a huge number of existing and potential competitors, augmented by wireless VoIP providers, MVNOs, and resellers. Against that background, there is no basis for establishing a screen at 95 MHz. Further, there is no basis for any competitive concern regarding the instant transaction.

Even assuming *arguendo* that additional competitive CMRS spectrum should not be considered, the transaction does not harm competition under the current initial screen standard. In Exhibit 4, the Applicants have provided a chart detailing the amount of spectrum attributable to the post-transaction Verizon Wireless in the ALLTEL CMAs. Exhibit 5 provides a list of competitors operating in the overlap markets utilizing cellular, PCS, 700 MHz and AWS spectrum.

2. The Proposed Merger Will Not Result in Competitive Harms

a. As the Commission Has Found, Competition for Mobile Subscribers Is Extremely Robust

The Commission's most recent report on CMRS competition found that "there is effective competition in the CMRS marketplace,"⁸⁸ observing that:

[a]s of July 2007, 280 million people, or 98 percent of the total U.S. population, have three or more different operators (cellular, PCS, and/or digital SMR)

⁸⁷ There are at least another 20, if not 40, MHz of spectrum being considered for the provision of AWS.

⁸⁸ *12th Annual Competition Report*, 23 FCC Rcd at 2245 (¶ 1).

offering mobile telephone service in the counties in which they live. Roughly 267 million, or 94 percent of the U.S. population, live in counties with four or more mobile telephone operators competing to offer service. . . . [T]he percent of the U.S. population living in counties with five or more mobile telephone operators . . . grew by 16 percent in the past year.⁸⁹

In the FCC’s data gathering process, more than 150 companies identified themselves as terrestrial mobile wireless carriers.⁹⁰ The Commission noted that, in addition to these operators, “the CMRS industry also includes mobile telephone resellers and [MVNOs], mobile satellite service providers, and various broadband and narrowband data service providers.”⁹¹ The report explained that this determination that effective competition exists, as well as the consumer benefits achieved through effective competition, also extends to rural areas.⁹²

The report additionally documented the beneficial impact of robust competition for U.S. subscribers, noting that “U.S. consumers continue to reap significant benefits—including low prices, new technologies, improved service quality and choice among providers—from competition in the [CMRS] marketplace, both terrestrial and satellite CMRS.”⁹³ The report declared that,

“[t]he continued rollout of differentiated pricing plans also indicates a competitive marketplace. In the mobile telephone sector, we observe independent pricing behavior, in the form of continued experimentation with varying price levels and structures, for varying service packages, with various handsets, and policies on handset pricing.”⁹⁴

⁸⁹ *Id.*, 23 FCC Rcd at 2265 (¶¶ 44-45).

⁹⁰ *Id.*, 23 FCC Rcd at 2245 (¶ 2).

⁹¹ *Id.*, 23 FCC Rcd at 2246 (¶ 2).

⁹² *Id.*, 23 FCC Rcd at 2291 (¶ 110). The report states that the average number of competitors in rural areas has remained generally unchanged in the last 4 years. *Id.*, 23 FCC Rcd at 2289 (¶ 105).

⁹³ *Id.*, 23 FCC Rcd at 2245 (¶ 1).

⁹⁴ *Id.*, 23 FCC Rcd at 2292 (¶ 112).

The report went on to note one analyst's observation that the "price per-minute is off 10% the past year, 20% over the past two years and 40% over the past three years."⁹⁵ The report further noted that "[s]ervice providers in the mobile telecommunications market also compete on many more dimensions other than price, including non-price characteristics such as coverage, call quality, data speeds, and mobile data content."⁹⁶ Moreover, the constant prospect of dissatisfied customers switching providers, the ease of which has grown significantly since the Commission's adoption of local number portability rules for wireless service, ensures the existence of a competitive wireless marketplace focused on meeting the pricing and service needs of consumers.⁹⁷

If anything, competition has become even more robust since the *12th Annual Competition Report*. First, in the intervening time, the "new" Clearwire venture was formed, as previously discussed. According to the company, the new Clearwire has "the largest spectrum position owned by one company," as well as the backing of Sprint Nextel, the country's third largest mobile carrier; Google, the world's dominant internet search engine and diversified information technology company; Intel, the world's largest supplier of semiconductor chips⁹⁸; as well as Comcast, Time-Warner, and Brighthouse, respectively the country's largest, second largest, and sixth largest cable television companies. The Clearwire venture plans to serve a substantial portion of the U.S. population by the end of 2009, and must be considered a strong entrant in the mobile marketplace.

⁹⁵ *Id.*, 23 FCC Rcd at 2321-22 (¶ 195).

⁹⁶ *Id.*, 23 FCC Rcd at 2297 (¶ 124).

⁹⁷ *Id.*, 23 FCC Rcd at 2317-18 (¶ 183).

⁹⁸ iSuppli.com, Competitiveness Separates Winners from Losers in 2007 Semiconductor Market (Nov. 27, 2007), <http://www.isuppli.com/news/default.asp?id=8675> (last visited June 9, 2008).

In addition, as noted by Chairman Martin, the recent 700 MHz auction provided “significant opportunities for new entrants, rural providers and non-nationwide incumbents,” drawing “wide-ranging interest from a number of new players.”⁹⁹ The Chairman noted that “[a] bidder other than a nationwide incumbent won a license in every market” and that “[a] total of 99 bidders other than the nationwide wireless incumbents won 754 licenses—representing approximately 69 percent of the 1,090 licenses sold in the 700 MHz auction.”¹⁰⁰ Notably, “[i]n the unpaired E block, new entrant Frontier Wireless LLC (Dish Network) won 168 licenses to establish a near nationwide footprint.”¹⁰¹ Indeed, following the auction, and based upon the FCC’s research, Chairman Martin indicated that carriers other than Verizon Wireless, AT&T Mobility, Sprint Nextel and T-Mobile, “including rural carriers, new entrants, and small businesses, hold significantly more spectrum in the top 100 markets than any one of the nationwide incumbents alone and hold even more spectrum on average in rural areas.”¹⁰²

As a final matter, the parties note the advances in MSS/ATC services. Both Globalstar and MSV have already received ATC authority, which permits those companies to deploy terrestrial mobile networks on almost 50 MHz of spectrum, and ICO’s request for ATC authority is currently pending. That increases the amount of spectrum available for mobile services by nearly 70 MHz, and creates three new competitors in the mobile marketplace.

⁹⁹ Written Statement of the Honorable Kevin J. Martin, Chairman, Federal Communications Commission, Before the Committee on Energy and Commerce, U.S. House of Representatives (Apr. 15, 2008) at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-281550A1.pdf (last visited June 4, 2008).

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

**b. The Proposed Merger Does Not Diminish Significantly
Competition in Any Local Market**

The proposed transaction will not harm mobile competition in any local markets. As discussed below, the types of harms that the Commission has considered on a local basis are not present in the CMAs involved in this transaction. As the Applicants have previously noted, in fact, the robust competitive forces at the national level operate to discipline the behavior of participants even at the local level. While the Applicants have provided, in Exhibits 4 and 5, details of the competitors present in the overlap counties and overall spectrum aggregation by the combined entity, the harmful behaviors that are analyzed at the local level are infeasible given the existing competitive forces at play in today's mobile marketplace.

(1) Unilateral Effects

In the Commission's prior competitive analyses, it has undertaken to determine whether a post-merger firm is capable of unilateral effects. "Unilateral effects arise when the merged firm finds it profitable to alter its behavior following the merger by 'elevating price and suppressing output.' . . . [i]n the case of mobile telephony, this might take the form of delaying improvements in service quality or adversely adjusting plan features without changing the plan price."¹⁰³ As discussed below, unilateral effects are typically constrained by competitive responses by rival firms (*i.e.*, other competitors adjusting their behavior to undercut the merged firm's ability to extract supra-competitive profits); the potential for new entry (*i.e.*, the ability of new firms to enter the market); the market share of the post-transaction entity; and the penetration rate in the

¹⁰³ See *ALLTEL-Midwest Order*, 21 FCC Rcd at 11,550 (¶ 47 & n.175) (citing *Sprint-Nextel Order*, 20 FCC Rcd at 14,001 (¶ 91); *ALLTEL-WWC Order*, 20 FCC Rcd at 13,075 (¶ 54); *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21,570 (¶ 115); *DOJ/FTC Merger Guidelines* § 2.2).

local market (*i.e.*, the ability of firms to acquire new customers as opposed to churning customers from other carriers). Each of these factors is discussed below.

(a) Competitive Responses by Rivals

In assessing whether a merged firm has market power, the FCC has stated that “[w]e examine whether competitive responses by rivals to the merged entity—such as through repositioning by existing licensees or entry by a new licensee—would sufficiently counter the merged entity’s exercise of market power.”¹⁰⁴ Specifically, the FCC has noted that “where a firm is already present in a market, has comparable service coverage, and has excess capacity relative to its current subscriber base, it should be able to relatively quickly adjust such factors as rates, plan features, handsets, and advertising.”¹⁰⁵

The charts attached at Exhibits 4 and 5 make clear that there are multiple carriers licensed to provide CMRS service in the markets where Verizon Wireless’ and ALLTEL’s spectrum holdings overlap. As discussed above, the Commission has consistently found the CMRS market to be highly competitive and that carriers compete vigorously based upon price, quality, coverage and service packages.¹⁰⁶ In fact, in the *12th Annual Competition Report*, the FCC found that—based upon an analysis starting with Census Blocks—four or more competitors existed in counties comprising 93.6% of the US population.¹⁰⁷ When it is considered that—even if competition is assessed on a rather small CMA basis—the counties with fewer providers are, in

¹⁰⁴ ALLTEL-Midwest Order, 21 FCC Rcd at 11,551 (¶ 50 & n.175) (citing *Sprint-Nextel Order*, 20 FCC Rcd at 14,007-009 (¶¶ 108-114); *ALLTEL-WWC Order*, 20 FCC Rcd at 13,079-081 (¶¶ 65-72); *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21,575-576 (¶¶ 134-137)).

¹⁰⁵ ALLTEL-Midwest Order, 21 FCC Rcd at 11,551 (¶ 50).

¹⁰⁶ See pp. 42-45, *supra*.

¹⁰⁷ *12th Annual Competition Report*, 23 FCC Rcd at 2265 (¶ 43, tbl. 3).

all likelihood, adjacent to and competitively constrained by by counties where four or more competitors exist, it is clearly the case that an existing firm in any market could respond rapidly to a purported exercise of unilateral market power by a combined company. Moreover, the intense competition among the four national carriers will continue unaffected after the transaction.

(b) Spectrum and Barriers to Entry

As the FCC has explained in the context of the *ALLTEL/Midwest Order*, “[a]lthough we no longer have a *per se* limit on the amount of spectrum suitable for mobile telephony that an entity may hold in any one market, we are mindful of the unique role of spectrum as a critical input in the market for wireless services and have carefully analyzed the potential impact of [the ALLTEL/Midwest] merger on that input.”¹⁰⁸ The amount of suitable substitute spectrum provides a metric for determining both the ability of competitors to expand capacity, but also—because spectrum is essential to competitors—a measure of whether other firms could enter or expand in response to any effort by the merged firm to exercise market power. Notably, the FCC has recognized that the relevant question is whether the combined company’s competitors would have the capacity to absorb sufficient current subscribers of the merging companies to thwart any prospective exercise of market power (*i.e.*, price increases).

The Commission has recognized that, “if entry into a market is easy, then entry or the threat of entry may prevent incumbent operators from exercising market power, either collectively or unilaterally, even in highly concentrated markets.”¹⁰⁹ As discussed previously,

¹⁰⁸ *ALLTEL-Midwest Order*, 21 FCC Rcd at 11,552 (¶ 53).

¹⁰⁹ *12th Annual Competition Report*, 23 FCC Rcd at 2272-73 (¶ 70).

there is conservatively over 600 MHz available for competing CMRS services.¹¹⁰ The availability of AWS, BRS/EBS, and MSS/ATC spectrum greatly reduces the capacity constraints faced by the merging companies' competitors.¹¹¹ Further, the Commission is currently considering making available additional spectrum for mobile telephony and broadband services.¹¹²

In addition, many of the competitors with substantial spectrum are positioned to rapidly enter any local market. Clearwire, for example, is allied with existing mobile operator Sprint, and could leverage Sprint's existing backhaul and tower infrastructure to rapidly introduce service in any local area it chooses.¹¹³ This is evidenced by the statement by Sprint's CEO, Dan Hesse, that the Clearwire company will roll-out service to 60 to 80 million POPs in 18 months—a rate of about a million POPs a week. Similarly, many of the firms holding AWS spectrum also have existing mobile networks (*e.g.*, T-Mobile, MetroPCS, and LEAP) or other network resources (*e.g.*, the CATV distribution infrastructure of SpectrumCo's parents). Where companies have discussed deployment schedules, those deployment schedules have been exceptionally rapid. Thus, it is quite clear that the large amount of mobile spectrum currently licensed—even if not currently available to the public in a specific local market—is a highly credible entry threat because of the rapidity of the time to market for many spectrum holders.

¹¹⁰ See p. 42, *supra*.

¹¹¹ *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21,576 (¶ 136 & n.379); *Sprint-Nextel Order*, 20 FCC Rcd at 13,985 (¶ 158), and Appendix C, n.2.

¹¹² See *Service Rules for Advanced Wireless Services in the 2155-2175 MHz Band*, Notice of Proposed Rulemaking, 22 FCC Rcd 17,035 (2007) (“*Advanced Wireless Services 2007 NPRM*”).

¹¹³ See *Clearwire Application* at 19 (stating that Clearwire “expects to achieve its accelerated schedule of reaching up to 140 million consumers by the end of 2010 by building on the Applicant’s collective deployment experience and leveraging Sprint’s existing network infrastructure through a series of separately negotiated commercial agreements”).

(c) Subscriber Share and Penetration

The FCC has traditionally recognized that “the presence of few competitors or potential entrants that consumers consider to be good substitutes for the merged firm, combined with a large market share by the merged entity, may increase the likelihood of unilateral effects.”¹¹⁴ Also relevant to this analysis is the potential for the number of potential subscribers to increase—“another factor [the FCC] consider[s] in determining the consequences of a unilateral attempt to exercise market power is penetration rate, both the current rate in a local market as well as the potential for growth in market penetration.”¹¹⁵

As documented in the attached Declaration of Carlton *et al.*, over the past twenty years, there has been enormous and continuous growth in the number of subscribers to wireless voice services. With the transition from analog to digital technology, wireless data has begun to attract a significant number of subscribers. “These trends are expected to continue. For example, Jefferies & Company forecasts that ‘mobile data growth will rapidly outpace voice in [the] next few years.’ Moreover, [t]he dramatic increases in output and reductions in price of the wireless telecommunications industry observed in recent years have been achieved as carriers merged and expanded to develop nationwide networks from their original regional service providers.”¹¹⁶ Based on this data, the transaction is unlikely to give rise to competitive harms.

¹¹⁴ ALLTEL-Midwest Order, 21 FCC Rcd at 11,552 (¶ 55 & n.194) (citing *Sprint-Nextel Order*, 20 FCC Rcd at 14,001 (¶ 92); *ALLTEL-WWC Order*, 20 FCC Rcd at 13,076-077 (¶ 58); *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21,570-571 (¶¶ 117-118); *DOJ/FTC Merger Guidelines* § 2.211).

¹¹⁵ ALLTEL-Midwest Order, 21 FCC Rcd at 11,553 (¶ 58) (citing *ALLTEL-WWC Order*, 20 FCC Rcd at 13,083-085 (¶¶ 78-83); *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21,578-580 (¶¶ 146-149)).

¹¹⁶ Exhibit 3 at 17 (¶ 33) (citing CTIA’s Wireless Industry Indices, Year-End 2007 Results, May 2008, Chart 25; Romeo A. Reyes, et al., “Special Situations: 700 MHz Auctions – A Prime Area of Wireless Spectrum” Jefferies & Company, Inc., January 22, 2008, p. 7).

(2) Coordinated Interaction

Beside unilateral effects, the FCC also analyzes the potential for coordinated action. In other words, “in markets where only a few firms account for most of the sales of a product, those firms may be able to exercise market power by either explicitly or tacitly coordinating their actions.”¹¹⁷ The FCC recognizes that “[s]uccessful coordination depends on ... the ability to reach terms that are profitable for each of the firms involved, and ... the ability to detect and punish deviations that would undermine the coordinated interaction.”¹¹⁸ The overlap CMAs do not pose any risk of coordinated interaction because the overall market for mobile services is highly competitive, and each CMA will continue to have a substantial number of competitors post-merger.

Indeed, there is clear evidence to suggest that carriers go to great lengths to compete by attempting to differentiate their products from their competitors. The industry would not have experienced the upheavals that occurred with rate plans offering large buckets of minutes, single rate calling plans, in-network free calling plans, product test drives, network openness and other pricing and service innovations if the market were not competitive. The *12th Annual Competition Report* notes, in fact, that “[i]n addition to investing in network infrastructure and acquiring spectrum, providers continue to pursue marketing strategies designed to differentiate their brand from rival offerings based on dimensions of service quality such as superior network coverage,

¹¹⁷ ALLTEL-Midwest Order, 21 FCC Rcd at 11,554 (¶ 60) (citing *Sprint-Nextel Order*, 20 FCC Rcd at 13,995 (¶ 69); *ALLTEL-WWC Order*, 20 FCC Rcd at 13,085 (¶ 85); *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21,580 (¶¶ 150); *DOJ/FTC Merger Guidelines* § 0.1).

¹¹⁸ ALLTEL-Midwest Order, 21 FCC Rcd at 11,554 (¶ 60).

reliability, and voice quality”¹¹⁹—a result that would be unexpected if tacit collaboration were, in fact, occurring.

III. PROCEDURAL CONSIDERATIONS

A. Request for Declaratory Ruling on Foreign Ownership

Verizon Wireless requests that the Commission extend Verizon Wireless’ current Section 310(b)(4) authority to hold interests in common carrier licenses and authorizations to encompass the ALLTEL Subsidiaries and Partnerships and the FCC licenses they will hold following transfer to Verizon Wireless as a result of this transaction. The Commission has previously approved Vodafone’s minority interest in Verizon Wireless, as well as Vodafone’s qualifications (as a foreign corporation) to hold indirect interests in common carrier licensees, pursuant to Section 310(b)(4) of the Communications Act.¹²⁰ No material changes have occurred in Verizon Wireless’ foreign ownership since that authorization was granted. Thus, the proposed transaction raises no new foreign ownership issues, and the Commission can and should extend the previous Section 310(b)(4) authorization to the ALLTEL Subsidiaries and Partnerships and the FCC licenses they will hold following transfer to Verizon Wireless.¹²¹

Here, Verizon Wireless proposes to acquire Atlantis Holding’s interests in the ALLTEL Subsidiaries and Partnerships. As a result of the transaction, these entities will be indirectly

¹¹⁹ *12th Annual Competition Report*, 23 FCC Rcd at 2310 (¶166).

¹²⁰ 47 U.S.C. §310(b)(4).

¹²¹ Verizon Wireless submits that the Commission need not issue a declaratory ruling, given the agency’s prior Section 310(b)(4) rulings approving Verizon Wireless’ current foreign ownership. Nonetheless, should the Commission determine that a new declaratory ruling is necessary, Verizon Wireless hereby requests such a ruling extending its current Section 310(b)(4) authority to hold interests in common carrier licenses and authorizations to encompass the FCC licensees and licenses in which it will hold an interest as a result of the proposed transaction.

owned by Verizon Wireless. Verizon Wireless is a Delaware general partnership owned indirectly by Verizon Communications and Vodafone. Verizon Communications, a Delaware corporation, owns 55 percent of Verizon Wireless; Vodafone, a public limited company organized under the laws of the United Kingdom, owns 45 percent.

As noted above, Vodafone has previously received authorization from the Commission to hold its indirect interests in Verizon Wireless' common carrier licenses and authorizations. In conjunction with the creation of the partnership, Verizon Communications and Vodafone sought Commission approval, pursuant to Section 310(b)(4), for Vodafone to indirectly hold up to 65.1 percent of Verizon Wireless. The Commission granted the parties' request, determining that "the public interest would be served by allowing the proposed indirect foreign ownership," consistent with the Commission's *Foreign Participation Order*.¹²² No material changes have occurred in Verizon Wireless' foreign ownership since that authorization was granted.¹²³ Further, the

¹²² *In re Applications of Vodafone AirTouch, Plc, and Bell Atlantic Corp., for Consent to Transfer Control or Assignment of Licenses and Authorizations*, Memorandum Opinion and Order, 15 FCC Rcd 16,507, 16,514 (¶ 19) (WTB & IB 2000) ("*Vodafone/Bell Atlantic Order*"). The Commission previously determined that, "[b]ecause the United Kingdom is a Member of the World Trade Organization (WTO), under the Commission's *Foreign Participation Order*, we presume that the public interest would be served by authorizing, under Section 310(b)(4), common carrier radio licenses held by entities indirectly owned by Vodafone and citizens of the United Kingdom." *In re Applications of AirTouch Commc'ns, Inc. and Vodafone Group, Plc, for Consent to Transfer of Control of Licenses and Authorizations*, Memorandum Opinion and Order, 14 FCC Rcd. 9430, 9434 (¶ 9) (WTB 1999). The Commission authorized Vodafone to hold up to a 100 percent indirect foreign ownership interest in U.S. common carrier radio licensees. *See id.*; *Int'l Authorizations Granted*, Public Notice, 15 FCC Rcd 116 (IB 1999). Subsequently, the Commission granted the request to allow Verizon Wireless to "be indirectly owned by Vodafone in an amount up to 65.1 percent" and authorized the transfer and assignment of numerous common carrier licenses including cellular, PCS, WCS and microwave authorizations. *Vodafone/Bell Atlantic Order*, 15 FCC Rcd at 16,514, 16,521 (¶¶ 19, 38).

¹²³ On April 8, 2008, Verizon Wireless provided a detailed showing to the Commission confirming that its current foreign ownership remains consistent with the foreign ownership ruling issued by the Commission in the *Vodafone/Bell Atlantic Order*. *See* Letter from Nancy J. Victory, Counsel for Verizon Wireless, to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 07-208, DA 07-4192 (April 8, 2008).

Commission has since extended this authority to permit Verizon Wireless to acquire numerous additional common carrier licenses and authorizations.¹²⁴ This request seeks a declaratory ruling allowing Vodafone to hold the same indirect ownership interest of up to 65.1 percent in the authorizations to be acquired and any future licenses and authorizations to be acquired by the ALLTEL Subsidiaries and Partnerships.

The public interest will be served if the Commission extends Verizon Wireless' current Section 310(b)(4) authority to hold interests in common carrier licenses and authorizations to encompass the ALLTEL Subsidiaries and Partnerships and the FCC licenses they will hold following transfer to Verizon Wireless as a result of this transaction. In the *Foreign Participation Order*, the Commission concluded that allowing additional foreign investment in common carrier wireless licensees beyond the 25 percent benchmark of Section 310(b)(4) will promote competition in the U.S. market, thereby serving the public interest.¹²⁵ The Commission, therefore, adopted a presumption in favor of allowing such investment if the investment is from entities organized under the laws of WTO Members.¹²⁶ As the Commission previously concluded, Vodafone's principal place of business is the United Kingdom, a WTO Member.¹²⁷

¹²⁴ See, e.g., *International Authorizations Granted*, Public Notice, 21 FCC Rcd 13,575 (2006) (granting Verizon Wireless' request to extend the existing foreign ownership ruling to AWS and other Wireless Communications Services licenses Verizon Wireless may acquire in the future); *Northcoast Order*, 18 FCC Rcd at 6492 (¶ 6 & n.15) (finding that Verizon Wireless' interest "ha[d] been previously approved by the Commission under Section 310(b)(4)" and because "no changes have occurred in Verizon Wireless' foreign ownership since . . . these rulings . . . the applications raise no new foreign ownership issues").

¹²⁵ *Rules and Policies on Foreign Participation in the U.S. Telecomms. Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23,891, 23,940 (¶ 111) (1997).

¹²⁶ *Id.* at 23,913 (¶ 50) and 23,940 (¶¶ 111-12).

¹²⁷ *Vodafone/Bell Atlantic Order*, 15 FCC Rcd at 16,514 (¶ 18).

The Commission already has determined that the public interest would be served by allowing Vodafone to hold up to a 65.1 percent interest in the common carrier licenses held by Verizon Wireless.¹²⁸ The same public interest rationale that applied in that decision should apply with equal force to the ALLTEL Subsidiaries and Partnerships and the FCC licenses being acquired by Verizon Wireless as a result of the proposed transaction.¹²⁹ The Commission should therefore issue a declaratory ruling extending Verizon Wireless' Section 310(b)(4) authority to these licenses, to the extent such extension of authority is needed.

B. Additional Authorizations

As set forth in the Applications, ALLTEL controls or has a minority, non-controlling general partner interest in entities holding numerous Commission licenses. The lists of call signs referenced in the Applications are intended to be complete and to include all licenses held by the respective licensees that are subject to the transaction. One or more of the ALLTEL Subsidiaries and Partnerships, however, may have on file or may hereafter file additional requests for authorizations for new or modified facilities, which may be granted or remain pending during the pendency of the Applications. Accordingly, the Applicants request that the FCC authorize Verizon Wireless to acquire control of the following upon the grant of the transfer of control applications:

- Any authorization issued to or leases obtained by one or more of the ALLTEL Subsidiaries and Partnerships during the Commission's consideration of the Applications and the period required for consummation of the transaction following approval;

¹²⁸ *Id.*, 15 FCC Rcd at 16,514 (¶ 19).

¹²⁹ Further, the network security commitments previously made by Verizon Wireless and Vodafone in connection with an agreement with the United States Department of Defense, Department of Justice, and the Federal Bureau of Investigation, dated Dec. 14, 1999, will apply to the authorizations acquired as a result of this transaction. *See infra* Section III(G).

- Construction permits held by such licensees that mature into licenses after closing; and
- Applications that are filed after the date of the Applications and that are pending at the time of consummation.

Such actions would be consistent with Commission precedent.¹³⁰ Moreover, the Applicants request that Commission approval of the transfer applications include any licenses that may have been inadvertently omitted.

C. Exemption from Cut-Off Rules

Pursuant to Sections 1.927(h), 1.929(a)(2) and 1.933(b) of the Commission's Rules,¹³¹ to the extent necessary,¹³² the Applicants request a blanket exemption from any applicable cut-off rules in cases where one or more of the ALLTEL Subsidiaries and Partnerships file amendments to pending applications to reflect consummation of the proposed transfer of control. This exemption is requested so that amendments to pending applications to report the change in ultimate ownership of such licensees, which are parties to these Applications, would not be

¹³⁰ See *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21,626 (¶ 275); *Application of WorldCom, Inc., and MCI Commc'ns Corp. for Transfer of Control of MCI Commc'ns Corp. to WorldCom, Inc.*, Memorandum Opinion and Order, 13 FCC Rcd 18,025 (¶ 226) (1998); *Applications of NYNEX Corp., Transferor, and Bell Atlantic Corp., Transferee, for Consent to Transfer Control of NYNEX Corp. and Its Subsidiaries*, Memorandum Opinion and Order, 12 FCC Rcd 19,985, 20,097 (¶ 247) (1997) ("NYNEX-Bell Atlantic Order"); *Applications of Craig O. McCaw and AT&T for Consent to Transfer of Control of McCaw Cellular Commc'ns, Inc. and Its Subsidiaries*, Memorandum Opinion & Order, 9 FCC Rcd 5836, 5909 (¶ 137 & n.300) (1994) ("McCaw-AT&T Order").

¹³¹ 47 C.F.R. §§ 1.927(h), 1.929(a)(2), and 1.933(b).

¹³² With respect to cut-off rules under Sections 1.927(h) and 1.929(a)(2), the Commission has previously found that the public notice announcing the transaction will provide adequate notice to the public with respect to the licenses involved, including for any license modifications pending. In such cases, it determined that a blanket exemption of the cut-off rules was unnecessary. See *Applications of Ameritech Corp. and GTE Consumer Servs. Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 6667, 6668 (¶ 2 & n.6) (1999); *In re Applications of Comcast Cellular Holdings, Co. and SBC Commc'ns, Inc.*, Memorandum Opinion and Order, 14 FCC Rcd 10,604, 10,605 (¶ 2 & n.3) (1999).

treated as major amendments. The scope of the transaction between Verizon Wireless and Atlantis Holdings demonstrates that the ownership change would not be made for the acquisition of any particular pending application, but as part of a larger transaction undertaken for an independent and legitimate business purpose. Grant of such application would be consistent with previous Commission decisions routinely granting a blanket exemption in cases involving similar transactions.¹³³

D. Unconstructed Facilities

The vast majority of the FCC authorizations covered by the transfer of control applications involve constructed facilities. The only exceptions are 47 recently-obtained point-to-point microwave radio licenses, 59 Local Multipoint Distribution Service licenses, and one cellular license (all of which are authorized, but not yet required to be constructed), as well as seven 39 GHz licenses, which are the subject of a timely-filed, pending request for extension of time to construct.¹³⁴ The transfer of control of these unbuilt facilities is incidental to this

¹³³ See, e.g. *NYNEX-Bell Atlantic Order*, 12 FCC Rcd at 20,091-0922 (¶ 234); *Applications of PacifiCorp Holdings, Inc., Transferor, and Century Tel. Enters., Inc., Transferee, For Consent to Transfer Control of Pacific Telecom, Inc., a Subsidiary of PacifiCorp Holdings, Inc.*, Memorandum Opinion and Order, 13 FCC Rcd 8,891, 8915-16 (¶ 47) (1997); *McCaw-AT&T Order*, 9 FCC Rcd at 5909 (¶ 137 & n.300).

¹³⁴ The station call signs for the unbuilt facilities are: WPLM505, WPLM506, WPLM507, WPLM508, WPLM509, WPLM510, WPLM511, WPLM512, WPLM513, WPLM514, WPLM515, WPLM516, WPLM517, WPLM518, WPLM519, WPLM520, WPLM521, WPLM522, WPLM523, WPLM524, WPLM525, WPLM391, WPLM392, WPLM393, WPLM339, WPLM340, WPLM341, WPLM342, WPLM343, WPLM344, WPLM345, WPLM346, WPLM347, WPLM348, WPLM349, WPLM350, WPLM351, WPLM352, WPLM353, WPLM354, WPLM356, WPLM357, WPLM358, WPLM359, WPLM360, WPLM361, WPLM371, WPLM372, WPLM373, WPLM376, WPLM377, WPLM378, WPLM379, WPLM380, WPLM381, WPLM382, WPLM383, WPLM384, WPLM385, WPQR581, WPQR580, WPQR583, WPQR585, WPQR586, WPQR584, WPQR582, WQGM465, WQHC996, WQHU201, WQHU202, WQHK351, WQHV851, WQHV852, WQIT938, WQHK375, WQHT230, WQHT999, WQIC793, WQIU812, WQGZ566, WQHK349, WQHK350, WQHP971, WQHS338, WQHS339, WQHZ270, WQHS718, WQHM647, WQIC999, WQID200, WQID242, WQID243, WQGX890, WQIF799, WQII537, WQII538, WQII539, WQII544, WQII545, WQII546, WQII547, WQII548, WQII549, WQII550, WQII551,

transaction, with no separate payment being made for any individual authorization or facility. Accordingly, there is no reason to review the transaction from the perspective of trading in licenses.¹³⁵

E. Unjust Enrichment

None of the authorizations held by ALLTEL were obtained pursuant to set-asides or bidding credits for designated entities. Thus, the unjust enrichment provisions of the Commission's auction rules¹³⁶ do not apply.

Several of ALLTEL's authorizations were originally subject to the Commission's installment payment plan.¹³⁷ For all of these authorizations, however, the installment payment obligations have been paid in full.

F. Environmental Impact

As required by Section 1.923(e) of the Commission's rules,¹³⁸ the Applicants state that the transfers of control of licenses and spectrum leases involved in this transaction will not have a significant environmental effect, as defined by Section 1.1307 of the Commission's rules.¹³⁹ A

WQII552, WQII553, WQIL591, WQIL592, WQIM450, WQIS267, WQIS268, WQIS803, and WQIS804.

¹³⁵ See 47 C.F.R. § 1.948(i)(1) (authorizing the Commission to request additional information if the transaction appears to involve unconstructed authorizations obtained for the "principal purpose of speculation"); *id.* § 101.55(c)-(d) (permitting transfers of unconstructed microwave facilities provided that they are "incidental to the sale [of] other facilities or merger of interests."); *id.*

¹³⁶ 47 C.F.R. § 1.2111(b)-(d).

¹³⁷ See ULS Application File Nos. 0003464799, 0003464786, 0003464784, and 0003464996.

¹³⁸ 47 C.F.R. § 1.923(e).

¹³⁹ *Id.* § 1.1307.

transfer of control of licenses or spectrum lease does not involve any engineering changes and, therefore, cannot have a significant environmental impact.

G. DOJ Agreement

Verizon Wireless, Bell Atlantic Corporation (Verizon Communications' predecessor-in-interest) and Vodafone are parties to an agreement with the United States Department of Defense, Department of Justice ("DOJ"), and the Federal Bureau of Investigation, dated December 14, 1999. The agreement provides that any system Verizon Wireless later acquires pursuant to an Application for Assignment or Transfer of Control of International 214 Authority is subject to the agreement. Verizon Wireless' understanding of this requirement was recently confirmed in a letter from the Steve Zipperstein, General Counsel of Verizon Wireless, to representatives of the above departments and agencies.¹⁴⁰ Verizon Wireless here again confirms that, following consummation, the licensed systems that are the subject of this transaction will be subject to the DOJ Agreement.

H. Related Governmental Filings

The DOJ will complete its own review of this transaction pursuant to the Hart-Scott-Rodino Antitrust Improvement Act of 1976¹⁴¹ and associated regulations. The Applicants plan to submit a pre-merger notification form and an associated documentary appendix to DOJ and the Federal Trade Commission.

¹⁴⁰ Letter from Steven E. Zipperstein, General Counsel, Verizon Wireless, to the Honorable Laura H. Parsky, Deputy Assistant Attorney General, U.S. Dept. of Justice, Douglas P. Larsen, Esq., Deputy General Counsel for Acquisition and Logistics, U.S. Dept. of Defense, and Gary M. Bald, Executive Assistant Director for Counterterrorism/Counterintelligence, Federal Bureau of Investigation (June 23, 2006).

¹⁴¹ 15 U.S.C. § 18a.

I. ALLTEL Minority Partnership Interests

ALLTEL holds a minority, non-controlling general partnership interest in one partnership and two limited partnerships (“Partnerships”), each of which holds various wireless authorizations. The Partnerships include: (1) Illinois Valley Cellular RSA 2-II Partnership; (2) Northwest Missouri Cellular Limited Partnership; and (3) Pittsfield Cellular Telephone Company. Under the relevant partnership agreements, ALLTEL is precluded from exercising control over each of the Partnerships, and each Partnership is controlled and managed by another carrier. The Applicants are filing FCC Forms 603 for the licenses held by each of these entities on a *pro forma*, non-forbearance basis to seek Commission approval to transfer control of these minority, non-controlling interests. The *pro forma* treatment of the transfer of control of licenses in which ALLTEL holds a minority general partner interest is consistent with prior transactions approved by the Commission.¹⁴²

J. ALLTEL Spectrum Leases

ALLTEL holds a controlling or minority general partner interest in several spectrum leases. The Applicants have applied for authority to transfer control of those leases. Specifically:

- ALLTEL Communications, LLC leases 5 MHz of spectrum from New Cingular Wireless PCS, LLC (“New Cingular”) in two counties (Albany and Laramie) in the Cheyenne, WY BTA (BTA077).¹⁴³ In particular, ALLTEL Communications, LLC leases 1900-1902.50/1980-1982.50 MHz from New Cingular’s C Block license WPTI725.
- ALLTEL Communications, LLC leases 5 MHz of spectrum from New Cingular Wireless PCS, LLC (“New Cingular”) in the Paris, TX BTA (BTA341).¹⁴⁴ In

¹⁴² See, e.g., *AT&T Wireless Services, Inc. and Cingular Wireless Corporation Seek FCC Consent to Transfer Control of Licenses and Authorizations*, Public Notice, 19 FCC Rcd 6185 (Apr. 2, 2004).

¹⁴³ See ULS Lease No. L000003393.

¹⁴⁴ See ULS Lease No. L000003394.

particular, ALLTEL Communications, LLC leases 1900-1902.50/1980-1982.50 MHz from New Cingular's C Block license WPTI753.

- ALLTEL Communications, LLC leases 10 MHz of spectrum from New Cingular Wireless PCS, LLC ("New Cingular") in 25 of 28 counties in the Billings, MT BTA (BTA041).¹⁴⁵ In particular, ALLTEL Communications, LLC leases 1900-1905/1980-1985 MHz from New Cingular's C Block license WPWQ957.
- WWC Holding Co., Inc. leases 20 MHz of spectrum from WirelessCo, L.P. in 10 of 28 counties in the Spokane-Billings, MT MTA (MTA042).¹⁴⁶ In particular, WWC Holding Co., Inc. leases 1870-1880/1950-1960 MHz from WirelessCo, L.P.'s B Block license WPZZ711.
- Pittsfield Cellular Telephone Company leases 10 MHz of spectrum from Verizon Wireless in the Pittsfield, MA BTA (BTA351).¹⁴⁷ In particular, Pittsfield Cellular Telephone Company leases 1890-1895/1970-1975 MHz from Verizon Wireless' F Block license KNLH265.

With the exception of the Pittsfield Cellular Telephone Company lease, Verizon Wireless does not intend to utilize the spectrum under the other four leases. Verizon Wireless will use commercially reasonable efforts to terminate these four leases after closing. Nevertheless, because Verizon Wireless may hold these leases for an extended period, it has included the spectrum under these leases in the spectrum aggregation chart attached to this Application.

IV. CONCLUSION

For the above reasons, the proposed transaction complies with all applicable Commission rules and will serve the public interest. Verizon Wireless and Atlantis Holdings accordingly urge the Commission to act expeditiously to grant these Applications. Prompt action is required to speed the deployment of wireless broadband services to rural America and to enable all consumers to enjoy the many benefits of this transaction.

¹⁴⁵ See ULS Lease No. L000003395.

¹⁴⁶ See ULS Lease No. L000001001.

¹⁴⁷ See ULS Lease No. L000002677.